

**BEFORE THE  
ENERGY FACILITY SITING COUNCIL  
OF THE STATE OF OREGON**

In the Matter of the Request for Amendment 8 )  
Of the Site Certificate for the Stateline Wind ) PROPOSED ORDER ON  
Project ) REQUEST TO TRANSFER STATELINE  
) WIND PROJECT CERTIFICATE  
) HOLDER

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Issued by

Oregon Department of Energy  
550 Capitol Street NE  
Salem, Oregon 97301-3742

December 2022

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1 **I. INTRODUCTION**  
2

3 The Oregon Department of Energy (Department), as staff to the Energy Facility Siting Council  
4 (Council), issues this Proposed Order in accordance with Oregon Revised Statutes (ORS)  
5 469.405 and Oregon Administrative Rules (OAR) 345-027-0400, recommending that the Council  
6 grant a Request for Amendment of the Stateline Wind Project Site Certificate for a transfer in  
7 certificate holder.  
8

9 The Council issued the Site Certificate for the Stateline Wind Project (Facility) on September 14,  
10 2001, and has subsequently approved seven Requests for Amendment.<sup>1</sup> The facility consists of  
11 two operational units: Unit 1 (Stateline 1 & 2) is comprised of 186 operating wind turbines with  
12 a peak generating capacity of up to 123 MW, and Unit 2 (Vansycle II) consists of up to 43  
13 operating wind turbines with a generating capacity of 104 MW. Construction The Seventh  
14 Amended Site Certificate identifies two certificate holders: FPL Energy Vansycle, LLC is  
15 authorized to construct, operate and retire Stateline 1&2 and FPL Energy Stateline II, Inc. is  
16 authorized to construct, operate and retire Vansycle II. Both certificate holders are wholly  
17 owned subsidiaries of NextEra Energy Resources, LLC (Parent Company).  
18

19 This order addresses a request to transfer ownership of the Stateline Wind Project (Vansycle II)  
20 from FPL Energy Stateline II, Inc. to Vansycle II Wind, LLC. Specifically, this order recommends  
21 that the Council grant a request for the site certificate to be amended to identify Vansycle II  
22 Wind, LLC as the owner of, and certificate holder authorized to construct, operate and retire  
23 facility components under the Stateline Wind Project associated with the Vansycle II unit.  
24

25 Pursuant to OAR 345-027-0400(1), “A request for amendment to a site certificate to transfer  
26 the site certificate is required for a transaction that results in a change in the ownership,  
27 possession or control of the facility or the certificate holder. A “new owner” refers to the  
28 person or entity that will gain ownership, possession or control of the facility or the certificate  
29 holder.”  
30  
31  
32  
33

---

<sup>1</sup> See the Council’s Final Order in the Matter of the Request for Amendment #1 of the Site Certificate for the Stateline Wind Project (“Final Order on Amendment #1”), May 24, 2002; Final Order in the Matter of the Request for Amendment #2 of the Site Certificate for the Stateline Wind Project (“Final Order on Amendment #2”), June 6, 2003; Final Order in the Matter of the Request for Amendment #3 of the Site Certificate for the Stateline Wind Project (“Final Order on Amendment #3”), June 20, 2005; Final Order in the Matter of the Request for Amendment #4 of the Site Certificate for the Stateline Wind Project (“Final Order on Amendment #4”), March 27, 2009; Final Order in the Matter of the Request for Amendment #5 (“Final Order on Amendment #5”), May 17, 2019; Final Order in the Matter of the Request for Amendment #6 (“Final Order on Amendment #6”), January 28, 2022; and Final Order in the Matter of the Request for Amendment #7 (“Final Order on Amendment #7”), June 24, 2022.

1 I.A. Name and Address of Certificate Holder

2

3 The certificate holders, parent company of the certificate holder and certificate holder contacts  
4 are identified in the Seventh Amended Site Certificate (the existing site certificate) and the Final  
5 Order on Request for Amendment 7, are as follows:

6 *Certificate Holders*

7

8 FPL Energy Vansycle, LLC and FPL Energy Stateline II, Inc.

9 700 Universe Blvd.

10 Juno Beach, FL 33408

11

12 *Parent Company of the Certificate Holders*

13

14 NextEra Energy Resources, LLC

15 700 Universe Blvd.

16 Juno Beach, FL 33408

17

18 *Certificate Holder Contacts*

19

20 David Lawlor

21 NextEra Energy Resources, LLC

22 700 Universe Blvd.

23 Juno Beach, FL 33408

24

25 I.B. Name and Address of New Project Owner / New Certificate Holder

26

27 The existing and new certificate holders are:

28

29 FPL Energy Vansycle, LLC and Vansycle II Wind, LLC

30 700 Universe Blvd.

31 Juno Beach, FL 33408

32

33 Anthony Pedroni

34 Vice President, Vansycle II Wind, LLC

35 700 Universe Blvd.

36 Juno Beach, FL 33408

37

38 I.C. Description of the Approved Facility and Location

39

40 The Stateline Wind Project consists of two operational units: Unit 1 (Stateline 1 & 2) is  
41 comprised of 186 operating wind turbines and with a peak generating capacity of up to 123  
42 MW, and Unit 2 (Vansycle II) consists of 43 operating wind turbines with a generating capacity  
43 of 104 MW.

1 Vansycle II also includes the following operating and/or approved related or supporting  
2 facilities:

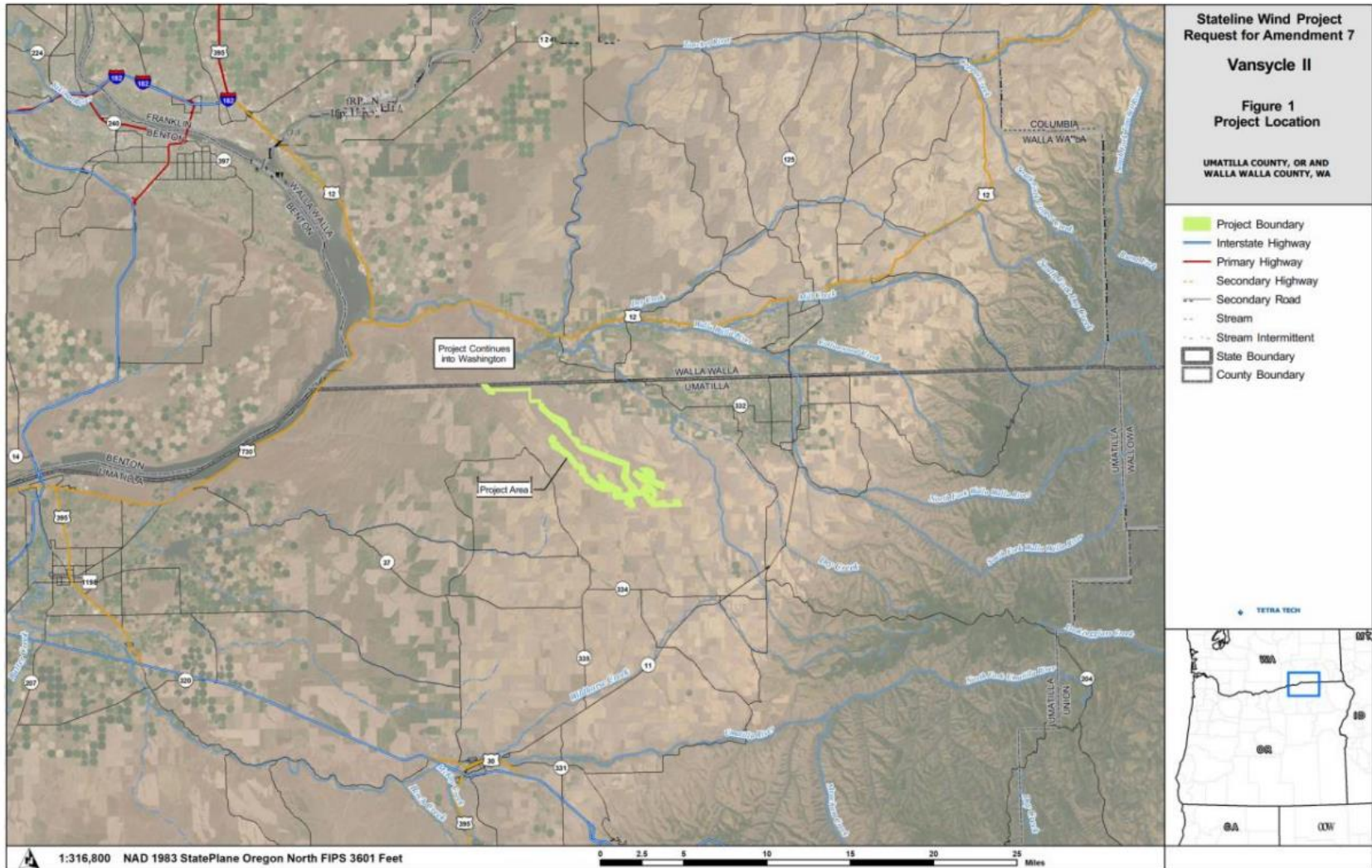
- 3           ▪ Access roads to reach each turbine for construction and maintenance
- 4           ▪ Underground collector cables that transmit the electrical output of the wind  
5           turbines to a substation
- 6           ▪ A substation
- 7           ▪ A 230-kV transmission line
- 8           ▪ Meteorological towers
- 9           ▪ An operations and maintenance building
- 10          ▪ Temporary laydown areas and access roads
- 11          ▪ 50 MW battery energy storage system

12  
13 Vansycle II is located in northern Umatilla County, north and east of Helix, Oregon. The towns  
14 closest to the facility are Helix, Oregon and Touchet, Washington. Vansycle II site boundary  
15 areas include the perimeter of the micro-siting areas for the wind turbines and related or  
16 supporting facilities described above, together with the laydown areas and temporary  
17 disturbance areas, as presented in Figure 1 below.<sup>2</sup>

---

<sup>2</sup> Site boundary means, “the perimeter of the site of a proposed energy facility, its related or supporting facilities, all temporary laydown and staging areas and all corridors and micro-siting corridors proposed by the applicant.” (OAR 345-001-0010(54))

Figure 1: Regional Location of Facility Site Boundary



1 I.D. Site Certificate History  
2

3 The Council issued a site certificate for the Stateline Wind Project (facility) on September 14,  
4 2001, authorizing construction and operation of a wind energy generation facility, with up to  
5 127 wind turbines, and a peak generating capacity of 83.8 MW. Since initial approval of the site  
6 certificate, Council approved seven site certificate amendments, as summarized below:  
7

- 8 • May 17, 2002 - Council issued the First Amended Site Certificate, authorizing an increase  
9 in the total number of wind turbines from 127 to 187 and an increase in facility peak  
10 generating capacity from 83.8 to 123 MW.  
11
- 12 • June 6, 2003 - Council issued the Second Amended Site Certificate, authorizing  
13 construction and operation of Stateline 3 (now referred to Vansycle II), which included  
14 279 0.66 MW wind turbines.  
15
- 16 • June 20, 2005 - Council issued the Third Amended Site Certificate, authorizing an  
17 extension of the Stateline 3 (Vansycle II) construction deadlines.  
18
- 19 • March 27, 2009 - Council issued the Fourth Amended Site Certificate authorizing a  
20 partial site certificate transfer.  
21
- 22 • May 17, 2019 - Council issued the Fifth Amended Site Certificate, authorizing a name  
23 change (Stateline 3 to Vansycle II), repowering of 43 existing turbines, and  
24 redevelopment of temporary laydown areas and access roads. Council approval of  
25 repowering authorized an increase in blade length from 148 feet to 177 feet, an  
26 increase in rotor diameter from 305 feet to 354 feet, an increase in total height from  
27 416 feet to 440 feet, and a decrease in the minimum ground clearance from 111 feet to  
28 85 feet.  
29
- 30 • January 28, 2022 - Council issued the Sixth Amended Site Certificate, authorizing  
31 changes to the repower scenario approved in the Fifth Amended Site Certificate,  
32 construction and operation of two additional wind turbines, and changes to dimension  
33 specifications including increase in the maximum blade-tip height from 440 to 499 feet,  
34 lowering of the minimum ground clearance from 85 to 59 feet, increase in hub height 30  
35 from 262.5 to 295 feet, and increased generating capacity. Council also authorized  
36 construction and operation of a 50 MW battery energy storage system (BESS) and  
37 temporary disturbance areas.  
38
- 39 • June 24, 2022 – Council issued the Seventh Amended Site Certificate, authorizing a  
40 change in the wind turbine dimensions associated with the repowering of 43 wind  
41 turbines for the Vansycle II unit. The Seventh Amended Site Certificate identifies FPL  
42 Energy Vansycle, LLC as the certificate holder for Stateline 1 and 2 , FPL Energy Stateline

1           II, Inc. as the certificate holder for Vansycle II and NextEra Energy Resources, LLC (NEER)  
2           as the owner and parent company of both certificate holders.

3  
4   **II. THE TRANSFER PROCESS**

5  
6   **II.A. Description of the Transfer Request**

7  
8   In its Request for Amendment to Transfer, the certificate holder requests a site certificate  
9   amendment to reflect a change in one of the two existing certificate holders, from FPL Energy  
10   Stateline II, Inc. to a new legal entity, Vansycle II Wind, LLC.

11  
12   **II.B. Procedural History**

13  
14   On September 14, 2022, prior to transfer of certificate holder ownership, Counsel for the  
15   existing certificate holders notified the Department via email of an anticipated change in  
16   certificate holder. On October 11 and November 22, 2022, prior to receipt of the Request for  
17   Amendment to Transfer, the Department received notice from David Lawlor of FPL Energy  
18   Stateline II, Inc. of a December 2022 certificate holder transfer.<sup>3</sup> On November 28, 2022, the  
19   certificate holder and new owner jointly submitted Request for Amendment 8 to Transfer,  
20   seeking Council approval of a change in certificate holder for the Stateline Wind Project Site  
21   Certificate.

22  
23   On **DATE**, the Department issued Public Notice of Request for Amendment 8 to Transfer to all  
24   persons on the Council’s general mailing list, the special mailing list established for the facility,  
25   an updated list of property owners supplied by the new owner, and reviewing agencies as  
26   defined in OAR 345-001-0010(52).

27  
28   The comment period ran from December **XX** through December 16, 2022. During its December  
29   16, 2022 meeting, Council conducted a Transfer Hearing on the Request for Transfer Certificate  
30   Holder of the Stateline Wind Project Site Certificate. Following the Transfer Hearing, Council  
31   received a staff presentation on the details of the transfer request, including the Department’s  
32   recommendations as presented in a December 2, 2022 staff report (presented in the format of  
33   a draft order). Following review of the transfer request and comments received, Council  
34   **approved/rejected** the Final Order on the Request for Transfer and **granted/denied** issuance of  
35   an eighth amended site certificate.

36  
37   **II.C. Comments on the Transfer Request**

38  
39   Public Comments received on Request for Amendment 8 and this Proposed Order will be  
40   summarized in the Final Order.

---

<sup>3</sup> Condition 99 of the site certificate requires that the certificate holder, prior to any transfer of ownership of the facility or ownership of the certificate holder, inform the Department of the proposed new owners.



1  
2 **III. EVALUATION OF TRANSFER REQUEST AND APPLICABLE COUNCIL STANDARDS**  
3

4 Under OAR 345-027-0400(8), the Council may approve a transfer of the site certificate if the  
5 Council finds that:

- 6  
7 *(a) The new owner complies with the Council standards described in OAR 345-022-0010,*  
8 *345-022-0050 and, if applicable, OAR 345-024-0710(1); and*  
9 *(b) The new owner is or will be lawfully entitled to possession or control of the site or the*  
10 *facility described in the site certificate.*

11  
12 The evaluation of OAR 345-027-0400(8)(a) is presented in Section III.A. *Organizational Expertise*  
13 and III.B. *Retirement and Financial Assurance* of this order; OAR 345-024-0710(1), *Monetary*  
14 *Path Payment Requirement* is related to the Carbon Standard and does not apply to wind  
15 energy generation facilities and therefore is not evaluated in this order.

16  
17 *Possession or Control of the Site, Facility or Certificate Holder [OAR 345-027-0400(8)(b)]*  
18

19 To approve a transfer of the site certificate, the Council must find that the new owner is  
20 lawfully entitled to possession or control of the site or the facility described in the site  
21 certificate. To evaluate whether the new owner is lawfully entitled to possession or control of  
22 the site or facility, OAR 345-027-0400(5) states, “The Department may require the new owner  
23 to submit a written statement from the current certificate holder . . . verifying the new owner’s  
24 right, subject to the provisions of ORS Chapter 469 and the rules of this chapter, to possession  
25 or control of the site or the facility.”

26  
27 Request for Transfer, Attachment 1 is a November 22, 2022 letter from the current site  
28 certificate holder, FPL Energy Stateline II, Inc., confirming that the Vansycle II Wind Project  
29 assets will be assigned to Vansycle II Wind, LLC. This letter demonstrates the new owner is  
30 entitled to possession or control of the facility.

31  
32 *Certification [OAR 345-027-0400(4)]*

33 To request an amendment to transfer a site certificate, the new owner must provide a  
34 certification that it agrees to abide by all the terms and conditions of the site certificate to be  
35 transferred. Request for Transfer Attachment 2 Exhibit A-2 is a November 22, 2022 letter from  
36 a Vice President of Vansycle Wind II, LLC stating it will abide by all the terms and conditions of  
37 the Seventh Amended Site Certificate.

38  
39 **III.A. Organizational Expertise [OAR 345-022-0010]**  
40

- 41 *(1) To issue a site certificate, the Council must find that the applicant has the*  
42 *organizational expertise to construct, operate and retire the proposed facility in*

1 compliance with Council standards and conditions of the site certificate. To conclude  
2 that the applicant has this expertise, the Council must find that the applicant has  
3 demonstrated the ability to design, construct and operate the proposed facility in  
4 compliance with site certificate conditions and in a manner that protects public  
5 health and safety and has demonstrated the ability to restore the site to a useful,  
6 non-hazardous condition. The Council may consider the applicant's experience, the  
7 applicant's access to technical expertise and the applicant's past performance in  
8 constructing, operating and retiring other facilities, including, but not limited to, the  
9 number and severity of regulatory citations issued to the applicant.

10  
11 (2) The Council may base its findings under section (1) on a rebuttable presumption that  
12 an applicant has organizational, managerial and technical expertise, if the applicant  
13 has an ISO 9000 or ISO 14000 certified program and proposes to design, construct  
14 and operate the facility according to that program.

15  
16 (3) If the applicant does not itself obtain a state or local government permit or approval  
17 for which the Council would ordinarily determine compliance but instead relies on a  
18 permit or approval issued to a third party, the Council, to issue a site certificate, must  
19 find that the third party has, or has a reasonable likelihood of obtaining, the  
20 necessary permit or approval, and that the applicant has, or has a reasonable  
21 likelihood of entering into, a contractual or other arrangement with the third party  
22 for access to the resource or service secured by that permit or approval.

23  
24 (4) If the applicant relies on a permit or approval issued to a third party and the third  
25 party does not have the necessary permit or approval at the time the Council issues  
26 the site certificate, the Council may issue the site certificate subject to the condition  
27 that the certificate holder shall not commence construction or operation as  
28 appropriate until the third party has obtained the necessary permit or approval and  
29 the applicant has a contract or other arrangement for access to the resource or  
30 service secured by that permit or approval.

1 **Findings of Fact**

2  
3 To approve a request for amendment to transfer the site certificate, the Council must find that  
4 the new owner complies with the Council’s Organizational Expertise Standard under OAR 345-  
5 022-0010. Sections (1) of the Council’s Organizational Expertise standard require that the  
6 certificate holder demonstrate its ability to design, construct, operate and retire the facility in  
7 compliance with Council standards and all site certificate conditions, in a manner that protects  
8 public health and safety, as well as its ability to restore the site to a useful, non-hazardous  
9 condition. Section (2) relates to the use of ISO 9000 or ISO 14000 certified programs to meet  
10 the standard. Sections (3) and (4) address third party permits. Because the certificate holder  
11 does not rely on an ISO 9000 or ISO 14000 certificate to meet the standard, and because the  
12 proposed transfer of ownership would not require any new or different third-party permits to  
13 be obtained the new owner’s compliance with sections (2) through (4) are not evaluated  
14 further in this Order.

15  
16 The certificate holder for Stateline Wind Project’s Vansycle II unit is FPL Energy Stateline, Inc.  
17 FPL Energy Stateline, Inc. is a Foreign Business Corporation that was initially registered to do  
18 business in the State of Oregon on December 2, 2003. Both FPL Energy Stateline Inc. and the  
19 Stateline 1 and 2 certificate holder, FPL Energy Vansycle, LLC, are wholly owned subsidiaries of  
20 NextEra Energy Resources LLC, which in turn is a wholly owned subsidiary of NextEra Energy  
21 Inc. Both certificate holders and have historically relied upon the organizational expertise of the  
22 Parent Company to satisfy the requirements of the standard.<sup>4</sup> The Council previously imposed  
23 Site Certificate Condition 28 which requires the certificate holders to promptly report any  
24 changes in access to the resources, expertise, and personnel of the parent company to ensure  
25 continued compliance with the standard.

26  
27 The new owner of Stateline Wind Project’s Vansycle II unit, Vansycle II Wind, LLC, is a foreign  
28 limited liability company that was formed in the State of Delaware on April 28, 2022.<sup>5</sup> Vansycle  
29 II Wind, LLC was registered to do business in the State of Oregon on May 4, 2022.<sup>6</sup> Like the  
30 current owner, Vansycle II Wind, LLC is a wholly owned subsidiary of NextEra Energy Resources,  
31 LLC and would continue to rely on the organizational expertise of its Parent Company to meet  
32 the Council’s Standard. The Council has previously found that the Parent Company has the  
33 organizational expertise to construct, operate and retire the proposed facility in compliance  
34 with Council standards and conditions of the site certificate.

35  
36 As described above, the Council may consider the number and severity of regulatory citations  
37 issued to the new owner in determining whether the proposed new certificate holder meets the  
38 Organizational Expertise Standard. On April 5, 2022, ESI Energy Inc., a wholly owned subsidiary

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<sup>4</sup> Final Order on Request for Amendment 4 of the Stateline Wind Project, page 15; Final Order on Request for Amendment 5 of the Stateline Wind Project, page 15.

<sup>5</sup> Request for Amendment 8 of the Site Certificate for the Stateline Wind Project, Attachment A-1

<sup>6</sup> Request for Amendment 8 of the Site Certificate for the Stateline Wind Project, Attachment A-3

1 of NextEra Energy Resources, LLC, that operates wind farms in Wyoming, New Mexico, Arizona,  
2 California, Colorado, Illinois, North Dakota and Michigan, as well as other states, plead guilty to  
3 three violations of the Migratory Bird Treaty Act related to the deaths of golden eagles at wind  
4 facilities in Wyoming and New Mexico. Under a plea agreement, ESI was ordered to a fine of  
5 \$1.86 million, pay restitution of \$6.2 million, and operate under an Eagle Management plan for  
6 a five-year probationary period in connection with the violations.<sup>7</sup>

7  
8 While the violations described above are related to federal laws that are not enforced by the  
9 Council, they do relate to wildlife habitat protected under the Council’s Fish and Wildlife  
10 Habitat standard and would generally be considered in findings related to the Organizational  
11 Expertise standard. However, because in this case both the certificate holder and new owner  
12 are subsidiaries of the same parent company, the Department recommends that the Council  
13 find these regulatory citations are not material to the request to transfer ownership.

14  
15 **Conclusions of Law**

16  
17 Based on the foregoing findings of fact, and based upon compliance with existing site certificate  
18 conditions, the Council finds that because the transfer in certificate holder from FPL Energy  
19 Stateline Inc. to Vansycle II Wind LLC would not result in a change in the underlying ownership  
20 of the certificate holder, or the certificate holder’s access to resources, expertise, and  
21 personnel of the parent company, the Department recommends that the Council find that the  
22 new owner complies with the requirements of the Council’s Organizational Expertise standard.

23  
24 **III.B. Retirement and Financial Assurance [OAR 345-022-0050]**

25  
26 *To issue a site certificate, the Council must find that:*

27  
28 *(1) The site, taking into account mitigation, can be restored adequately to a useful, non-*  
29 *hazardous condition following permanent cessation of construction or operation of*  
30 *the facility.*

31  
32 *(2) The applicant has a reasonable likelihood of obtaining a bond or letter of credit in a*  
33 *form and amount satisfactory to the Council to restore the site to a useful, non-*  
34 *hazardous condition.*

35  
36  

---

<sup>7</sup> U.S. Department of Justice. “ESI Energy LLC, Wholly Owned Subsidiary of NextEra Energy Resources LLC, is Sentenced After Pleading Guilty to Killing and Wounding Eagles in Its Wind Energy Operations, in Violation of the Migratory Bird Treaty Act.” Press Release Number 22-331, April 5, 2022. Available from: <https://www.justice.gov/opa/pr/esi-energy-llc-wholly-owned-subsiary-nextera-energy-resources-llc-sentenced-after-pleading>

1 **Findings of Fact**

2 The Retirement and Financial Assurance standard requires a finding that the facility site, taking  
3 into account mitigation, can be restored to a useful, non-hazardous condition at the end of the  
4 facility’s useful life, should either the new owner permanently cease construction or operation  
5 of the facility.<sup>8</sup> In addition, it requires a demonstration that the new owner can obtain a bond  
6 or letter of credit to restore the site to a useful, non-hazardous condition.

7  
8 The Council previously found that the site, taking into account mitigation, can be restored  
9 adequately to a useful, non-hazardous condition following permanent cessation of construction  
10 or operation of the facility.<sup>9</sup> No changes to the design, construction, or operation of the facility  
11 are proposed as part of Request for Amendment to Transfer, and the Department recommends  
12 that the new owner’s compliance with this standard would not be affected by the proposed  
13 transfer of ownership.

14  
15 In its Final Order on Request for Amendment 6, the Council found that \$6,906,000 (Q4 2021  
16 Dollars) was a satisfactory amount to restore the site to a useful, nonhazardous condition. As  
17 part of that order, the Council imposed amended Site Certificate Condition 109, which required  
18 the certificate holder to provide a bond or letter of credit in that amount, and to adjust the  
19 amount annually for inflation. Because the proposed transfer of ownership does not change the  
20 activities necessary for site restoration, the Department recommends that the amount imposed  
21 by Site Certificate Condition 109 continues to be satisfactory.

22  
23 Under OAR 345-022-0050(2), the Council must find that the new owner has a reasonable  
24 likelihood of obtaining a bond or letter of credit in a form and amount satisfactory to the  
25 Council to restore the site to a useful, non-hazardous condition. FPL Energy Stateline II, Inc.  
26 previously submitted a surety bond issued by the Zurich American Insurance Company and  
27 Fidelity and Deposit Company of Maryland to meet this standard.<sup>10</sup> Because all assets  
28 associated with Stateline Wind Project’s Vansycle II unit will be transferred to the new owner,  
29 and because the new owner is owned by the same Parent Company as the current principal,  
30 the Department recommends that the Council may find that the new owner has a reasonable  
31 likelihood of obtaining a bond or letter of credit in the form and amount required by the site  
32 certificate.

33  
34 **Conclusions of Law**

35

---

<sup>8</sup> OAR 345-022-0050(1).

<sup>9</sup> Final Order on Request for Amendment 6 of the Site Certificate for the Stateline Wind Project, page 88.

<sup>10</sup> The current surety bond does not reflect the total amount required by Site Certificate Condition 109. The condition requires the certificate holder to provide an updated bond prior to construction of the modifications approved in the Final Order on Amendment 6, which has not yet occurred.

1 Based on the foregoing findings of fact, and subject to the existing site certificate conditions,  
2 the Department recommends that Council find that the new owner complies with the Council's  
3 Retirement and Financial Assurance standard.

4  
5 **IV. GENERAL CONCLUSIONS**

6  
7 The Department recommends that the Council find that, subject to compliance with existing  
8 site certificate conditions, the approval of the request to transfer ownership of Vansycle II from  
9 FPL Energy Stateline Inc. to Vansycle II Wind, LLC will not affect compliance with the Council's  
10 standards described in OAR 345-022-0010 and 345-022-0050. The Department further  
11 recommends that the Council find that the new owner is lawfully entitled to possession or  
12 control of the site or the facility described in the site certificate.

1 **V. ORDER**

2

3 Based on the above findings of fact, reasoning, and conclusions of law, the Department  
4 recommends the Council approve Request for Amendment 8 of the Site Certificate for the  
5 Stateline Wind Project and issue the Eight Amended Site Certificate for the Stateline Wind  
6 Project, naming Vansycle II Wind, LLC as the new certificate holder for the Vansycle II portion of  
7 the facility.

Issued this 16<sup>th</sup> day of December 2022

OREGON ENERGY FACILITY SITING COUNCIL

By: \_\_\_\_\_  
Marcia Grail, Chair

8 **ATTACHMENTS**

9 Attachment A: Public Notice of Request for Amendment 8 (pending issuance upon  
10 receipt of property owner information)

11 Attachment B: Eighth Amended Site Certificate

12

**Attachment A: Public Notice of Request for Amendment to Transfer  
(pending ODOE issuance upon receipt of property owner information)**



**Attachment B: Draft Amended Site Certificate**

**ENERGY FACILITY SITING COUNCIL**  
**OF THE**  
**STATE OF OREGON**

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**Seventh-Eighth Amended Site Certificate**  
**for the**  
**Stateline Wind Project**

ISSUANCE DATES

Site Certificate	September 14, 2001
First Amended Site Certificate	May 24, 2002
Second Amended Site Certificate	June 6, 2003
Third Amended Site Certificate	June 20, 2005
Fourth Amended Site Certificate	March 27, 2009
Fifth Amended Site Certificate	May 17, 2019
Sixth Amended Site Certificate	January 28, 2022
Seventh Amended Site Certificate	June 24, 2022
<u><b>Eighth Amended Site Certificate</b></u>	<u><b>TBD</b></u>

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Oregon Energy Facility Siting Council

SEVENTH-EIGHTH AMENDED SITE CERTIFICATE FOR THE STATELINE WIND PROJECT

I. INTRODUCTION

The Energy Facility Siting Council (“Council”) issues this amended site certificate for the Stateline Wind Project in the manner authorized under ORS Chapter 469. This site certificate is a binding agreement between the State of Oregon (“State”), acting through the Council, and the certificate holders. The certificate holders are FPL Energy Vansycle, LLC (“~~FPL Vansycle~~”) and ~~FPL Energy Stateline II, Inc. (“FPL Stateline”)~~Vansycle II Wind, LLC. This site certificate authorizes the certificate holders to construct and operate the Stateline Wind Project (the “facility”) in Umatilla County, Oregon.

The findings of fact, reasoning and conclusions of law underlying the terms and conditions of this site certificate are set forth in the following documents, incorporated herein by this reference: (a) the Council’s Final Order in the Matter of the Application for a Site Certificate for the Stateline Wind Project (“Final Order on the Application”), issued on September 14, 2001, (b) the Council’s Final Order in the Matter of the Request for Amendment #1 of the Site Certificate for the Stateline Wind Project (“Final Order on Amendment #1”), (c) the Council’s Final Order in the Matter of the Request for Amendment #2 of the Site Certificate for the Stateline Wind Project (“Final Order on Amendment #2”), (d) the Council’s Final Order in the Matter of the Request for Amendment #3 of the Site Certificate for the Stateline Wind Project (“Final Order on Amendment #3”), (e) the Council’s Final Order in the Matter of the Request for Amendment #4 of the Site Certificate for the Stateline Wind Project (“Final Order on Amendment #4”), (f) the Council’s Final Order in the Matter of the Request for Amendment #5 (“Final Order on Amendment #5), (g) the Council’s Final Order in the Matter of the Request for Amendment #6 (“Final Order on Amendment #6), ~~and~~ (h) the Council’s Final Order in the Matter of the Request for Amendment #7 (“Final Order on Amendment #7) and the Council’s Final Order in the Matter of the Request for Amendment #8. [Amendments #1, #2, 3, #4, #5, #6, ~~and~~ #7, and #8]

In interpreting this site certificate, any ambiguity will be clarified by reference to the following, in order of priority: this Seventh-Eighth Amended Site Certificate, Final Order on Amendment #8, Final Order on Amendment #7, Sixth Amended Site Certificate, Final Order on Amendment #6, Fifth Amended Site Certificate, Final Order on Amendment #5, Fourth Amended Site Certificate, Final Order on Amendment #4, the Final Order on Amendment #3, the Final Order on Amendment #2, the Final Order on Amendment #1, the Final Order on the Application and the record of the proceedings that led to the Final Orders on the Application and Amendments #1, #2, #3, #4, #5, #6, and #7. [Amendments #1, #2, #3, #4, #5, #6, #7, and #8]

The definitions in ORS 469.300 and OAR 345-001-0010 apply to terms used in this site certificate, except where otherwise stated or where the context clearly indicates otherwise.

II. SITE CERTIFICATION

1. To the extent authorized by state law and subject to the conditions set forth herein, the State authorizes ~~FPL Energy Vansycle, LLC~~ FPL Vansycle to construct, operate and retire Stateline 1&2 and authorizes ~~FPL Stateline~~Vansycle II Wind, LLC to construct, operate and retire Vansycle II as described in Section III of this site certificate. ORS 469.401(1). [Amendment #4, #5, #6, #7, and #8]

- 1 2. This site certificate is effective until it is terminated under OAR 345-027-0110 or the rules in effect  
2 on the date that termination is sought or until the site certificate is revoked under ORS 469.440 and  
3 OAR 345-029-0100 or the statutes and rules in effect on the date that revocation is ordered. ORS  
4 469.401(1). [Amendment #5, #6, #7]  
5
- 6 3. This site certificate does not address, and is not binding with respect to, matters that were not  
7 addressed in the Council’s Final Orders on the Application and Amendments #1, #2, #3, #4, #5, #6,  
8 ~~and #7, and #8~~. These matters include, but are not limited to: building code compliance, wage, hour  
9 and other labor regulations, local government fees and charges and other design or operational  
10 issues that do not relate to siting the facility (ORS 469.401(4)) and permits issued under statutes and  
11 rules for which the decision on compliance has been delegated by the federal government to a state  
12 agency other than the Council. ORS 469.503(3). [Amendments #1, #2, #3, #4, #5, #6, #7, ~~and #8~~]  
13
- 14 4. The State and the certificate holders shall abide by local ordinances, state law and the rules of the  
15 Council in effect on the date this site certificate is executed. ORS 469.401(2). In addition, upon a  
16 clear showing of a significant threat to public health, safety or the environment that requires  
17 application of later-adopted laws or rules, the Council may require compliance with such  
18 later-adopted laws or rules. ORS 469.401(2). [Amendment #4, #5, #6, #7]  
19
- 20 5. For a permit, license or other approval addressed in and governed by this site certificate, the  
21 certificate holders shall comply with applicable state and federal laws adopted in the future to the  
22 extent that such compliance is required under the respective state agency statutes and rules. ORS  
23 469.401(2). [Amendment #4, #5, #6, #7]  
24
- 25 6. Subject to the conditions herein, this site certificate binds the State and all counties, cities and  
26 political subdivisions in Oregon as to the approval of the site and the construction, operation and  
27 retirement of the facility as to matters that are addressed in and governed by this site certificate.  
28 ORS 469.401(3). [Amendment #5, #6, #7]  
29
- 30 7. Each affected state agency, county, city and political subdivision in Oregon with authority to issue a  
31 permit, license or other approval addressed in or governed by this site certificate shall, upon  
32 submission of the proper application and payment of the proper fees, but without hearings or other  
33 proceedings, issue such permit, license or other approval subject only to conditions set forth in this  
34 site certificate. ORS 469.401(3). [Amendment #5, #6, #7]  
35
- 36 8. After issuance of this site certificate, each state agency or local government agency that issues a  
37 permit, license or other approval for the facility shall continue to exercise enforcement authority  
38 over such permit, license or other approval. ORS 469.401(3). [Amendment #5, #6, #7]  
39
- 40 9. After issuance of this site certificate, the Council shall have continuing authority over the site and  
41 may inspect, or direct the Oregon Department of Energy (“Department”) to inspect, or request  
42 another state agency or local government to inspect, the site at any time in order to assure that the  
43 facility is being operated consistently with the terms and conditions of this site certificate. ORS  
44 469.430. [Amendment #5, #6, #7]  
45

### 46 III. DESCRIPTIONS AND DIVIDED RESPONSIBILITY 47

1 **1. Stateline 1&2**

2  
3 **(i) Major Structures**

4 Stateline 1&2 consists of 186 Vestas V47-660-kilowatt (kW) wind turbines, each having a peak  
5 generating capacity of 0.66 MW.<sup>1</sup> Each wind turbine is connected to a 34.5-kilovolt (kV) collector system.  
6 The wind turbines are grouped in “strings” of turbines, each turbine spaced approximately 250 feet from  
7 the next, generally slightly downwind of the crest of ridges. Major facility structures are further as  
8 described in the Final Orders on the Application and Amendments #1 and #2. [Amendments #1, #2 and #4]

9  
10 **(ii) Related or Supporting Facilities**

11 Stateline 1&2 includes the following related or supporting facilities described below and in  
12 greater detail in the Final Order on Amendment #4:

- 13
- 14 ■ Access roads to reach each turbine for construction and maintenance
- 15 ■ Underground collector cables that transmit the electrical output of the wind turbines to  
16 a substation in Washington [Amendment #2]
- 17 ■ Meteorological towers
- 18 ■ A satellite operations and maintenance building

19  
20 Access Roads

21  
22 County roads that extend south from Highway 12 in Washington (e.g., Hatch Grade Road and  
23 Butler Grade Road) and north from Oregon Highway 11 (e.g., Vansycle Canyon Road and Butler Grade  
24 Road) are the primary routes of access to the facility site. From the county roads, a web of private farm  
25 roads provides access to most of the ridges upon which the facility is located. Additional access roads  
26 are located along the length of each turbine string and connecting each turbine string to the next.  
27 Access roads are further as described in the Final Orders on the Application and Amendments #1 and #2.  
28 [Amendments #1 and #2]

29  
30 Collector System

31  
32 The wind turbines generate power at 690 volts. A transformer adjacent to each tower  
33 transforms the power to 34.5 kV. From the turbines, power is transmitted via an underground 34.5-kV  
34 collector system. Overhead transmission lines, located entirely within Washington, connect the  
35 Washington substation to a BPA 115-kV transmission line north of the Walla Walla River and to a  
36 PacifiCorp substation just north of Highway 12. [Amendments #1, #2 and #4]

37  
38 Meteorological Towers

39  
40 Stateline 1&2 includes up to six permanent meteorological (met) towers to measure wind  
41 conditions. The met towers are unguyed towers. [Amendments #1, #2 and #4]

42  

---

<sup>1</sup> The site certificate authorizes up to 187 turbines, but the certificate holder chose to build 186.

1            Satellite O&M Building

2  
3            Stateline 1&2 includes an operation and maintenance (O&M) facility, which is a satellite to the  
4 primary O&M facility located in Washington. The satellite O&M facility is located along Butler Grade  
5 Road south of Gardena and just south of the state line in Oregon. [Amendment #4]  
6

7            **2. Vansycle II<sup>2</sup>**

**(i) Major Structures**

8            Vansycle II consists of up to 45 wind turbines. Vansycle II has a combined peak generating  
9 capacity of up to 118.68 MW. Major facility structures are further as described in the Final Orders on  
10 Amendments #4, #5, #6, and #7. [Amendment #4, #5, #6, #7]  
11

12            Wind Turbine Repower

13  
14            Wind turbine repowering includes removal and replacement of wind turbine hub (blade and rotor) and  
15 gearbox (nacelles). Haul trucks, boom trucks and cranes are used to support repowering activities. A  
16 crane is mobilized and new gearboxes, blades and hub are delivered onsite. A boom truck or telehandler  
17 is used to unload and assemble new turbine blades and hub into a complete rotor. Gearboxes and  
18 assembled hubs are set up on the access road adjacent to the wind turbine. The crane is used to lower  
19 rotors and gearbox, which is then be place next to the crane; and, then used to pick up and set the new  
20 rotor. Either a boom truck or telehandler is used to disassemble the replaced rotor (blade and hub);  
21 materials are then transported offsite for proper disposal at a licensed disposal or recycling facility.  
22 Facility modifications approved in the Sixth Amended Site Certificate include repowering (replacing  
23 blades and nacelles) of 43 existing wind turbines, replacing up to 4 wind turbines and constructing up to  
24 2 new wind turbines, but any variation in these options would not result in more than 45 repowered,  
25 replaced and/or new wind turbines within the Vansycle II unit. The wind turbine changes would result in  
26 increased per turbine capacity, from 2.3 to 2.66 MW; increased maximum blade-tip height from 440 to  
27 499 feet, reduced minimum aboveground blade-tip clearance from 59 to 50 feet, and increased hub  
28 height from 295 to 315 feet. [Amendment #5, #6, #7]

**(ii) Related or Supporting Facilities**

29            Vansycle II includes the following related or supporting facilities described below and in greater  
30 detail in the Final Order on Amendment #4, and Final Order on Amendment #6:  
31

- 32            ■ Access roads to reach each turbine for construction and maintenance
- 33            ■ Underground collector cables that transmit the electrical output of the wind turbines to  
34            a substation
- 35            ■ A substation
- 36            ■ A 230-kV transmission line
- 37            ■ Meteorological towers
- 38            ■ An operations and maintenance building
- 39            ■ Temporary laydown areas and access roads

---

<sup>2</sup> Prior to the Fifth Amended Site Certificate, Vansycle II was referred to as Stateline 3.

- 50 MW battery energy storage system  
[Amendment #4, #5, #6]

#### Access Roads

County roads that extend south from Highway 12 in Washington (e.g., Hatch Grade Road and Butler Grade Road) and north from Oregon Highway 11 (e.g., Vansycle Canyon Road and Butler Grade Road) are the primary routes of access to the facility site. From the county roads, a web of private farm roads provides access to most of the ridges upon which the facility is located. Additional access roads are located along the length of each turbine string and connecting each turbine string to the next.  
[Amendment #4]

#### Collector System, Substation and Transmission Line

The wind turbines generate power at 690 volts. A transformer adjacent to each tower transforms the power to 34.5 kV. From the turbines, power is transmitted via an underground 34.5-kV collector system to a substation located in Township 5 North, Range 34 East. Approximately 16 miles of aboveground 230-kV transmission line (13 miles in Oregon) connects the Vansycle II substation to existing major transmission lines in Washington. [Amendment #4]

#### Meteorological Towers

Vansycle II includes two permanent meteorological (met) towers. The met towers are unguyed towers. [Amendment #4]

#### O&M Building

Vansycle II includes an O&M building near the intersection of Wayland Road and Gerking Flat Road north of Helix. [Amendment #4]

#### Temporary and Permanent Disturbance

The total temporary disturbance of RFA6 Facility modifications is estimated at approximately 212 acres. Temporary disturbance would result from a 20-acre staging area, 126 acres for rotor assembly areas (2.5 acres per turbine), and 68 acres from road widening and crane paths (16 to 38 feet for 15.7 miles). Temporary disturbance must be restored consistent with existing conditions and in accordance with revegetation and reclamation requirements of the final Revegetation Plan.

The total permanent disturbance is estimated at 12 acres, including 0.08 acres for 2 new wind turbine foundations; 0.09 acres for new access roads; and 11 acres for the BESS.

#### Battery Energy Storage System (BESS)

The battery energy storage system (BESS) would consist of lithium-ion batteries in a series of modular unoccupied containers, as described in more detail below:

- Batteries - Lithium-ion system would require regular change out of batteries as they degrade over time at a rate depending on usage. It is conservatively assumed the battery would need



1 to be replaced every 15-20 years, or 1-2 times over the operational life of the repowered  
2 facility, which is assumed to be approximately 30 years.

- 3 • Approximately 72 steel containers, each approximately 20 feet in length by 9 feet in width.
- 4 • Approximately 18 inverters (four containers per inverter) with associated step up  
5 transformers, each having a combined skid footprint approximately 30 feet by 10 feet and  
6 power ratings for 3.43 mega-volt-ampere (MVA) and 3.55 MVA, respectively.
- 7 • Interconnection facilities including a control house, protective device, and power transformer.
- 8 • Battery and inverter equipment would connect via a combination of above ground cable trays,  
9 underground conduit, direct-buried cable and/or covered cable trenches installed at a  
10 minimum depth of 3-feet below grade.
- 11 • Battery containers and inverter skids would either be placed on an engineered grade or on  
12 poured concrete foundations or utilize steel piles, depending on site conditions and Umatilla  
13 County Building Department requirements.
- 14 • Utilize existing control house for communication equipment.
- 15 • Each container within the battery storage system would have its own skid-mounted power  
16 transformer and bi-directional inverter as shown in Figure 2. The bi-directional inverter allows  
17 energy to flow in or out of the battery to provide charge and discharge. Power switches and  
18 relays would protect the system. No emergency generator or backup power system would be  
19 provided, however local distribution could be used as a backup auxiliary source.
- 20 • Cooling units would be placed either on top of the building enclosure or containers or along  
21 the side.
- 22 • Site surfacing would be primarily gravel, with a maximum of 7.2 acres of the energy storage  
23 area graveled to a depth of 6 inches, using approximately 4,160 tons of gravel.

24  
25 The total area of the battery storage site would be approximately 11 acres, and would include  
26 approximately 3,000 linear feet of fence.

27  
28 *Spill and fire prevention measures of the BESS*

29  
30 The BESS would include the following design features to minimize fire and safety risks:

- 31 • The BESS would have a fire suppression system designed in accordance with applicable  
32 standards specified by the Umatilla County building department through the permitting  
33 process which would include the 2014 Oregon Structural Specialty Code et. seq.
- 34 • The BESS would have 350-gallon or greater water buffaloes located at the site (per Condition  
35 34).
- 36 • The BESS would be stored in completely contained, leak-proof steel containers, serving as  
37 secondary containment for the modules housing the battery cells.
- 38 • The 11-acre BESS site would be constructed and operated within a fenced area (per Condition  
39 35).
- 40 • The BESS would be electronically monitored allowing for tracking and responding to issue of  
41 battery malfunction.
- 42 • O&M staff would conduct monthly inspections according to the manufacturer's  
43 recommendations.
- 44 • Requirements of Emergency Action Plan (per Conditions 48 and 85) would be adhered to,  
45 including emergency (e.g., fire) response procedures.  
46 [Amendment #6]

1 **3. Location of the Facility**

2  
3 The facility is located in Umatilla County, north and east of Helix, Oregon. The towns closest to  
4 the facility are Helix, Oregon, and Touchet, Washington. The wind turbines would be located on ridges  
5 east of the Columbia River and south of the Walla Walla River. The location of the facility is further  
6 described in the Final Orders on the Application and Amendments #1, #2, #4, #5, #6 and #7.  
7 [Amendments #1, #2, #4, #5, #6, #7]

8  
9 **4. Responsibility for Stateline 1&2 and Vansycle II**

10  
11 FPL Energy Vansycle, LLC ~~FPL Vansycle~~ shall be individually responsible for compliance with all  
12 conditions relating to Stateline 1&2, and ~~FPL Stateline Vansycle II Wind, LLC~~ shall not be jointly  
13 responsible for such compliance. ~~FPL Stateline Vansycle II Wind, LLC~~ shall be individually responsible for  
14 compliance with all conditions relating to Vansycle II and FPL Energy Vansycle, LLC ~~FPL Vansycle~~ shall not  
15 be jointly responsible for such compliance. If the Council or the Oregon Department of Energy  
16 (“Department”) determines that a violation of the Site Certificate or any Council order pertaining to the  
17 facility may have occurred, the Council or the Department may direct appropriate inquiries to the  
18 responsible entity. If the Council or the Department is unable to determine which entity is responsible,  
19 the Council or the Department may direct appropriate inquiries to both entities. [Amendments #4, #5,  
20 #6, #7, and #8]

21  
22 **IV. CONDITIONS REQUIRED BY COUNCIL RULES**

23  
24 This section lists conditions specifically required by OAR 345-027-0020 (Mandatory Conditions in  
25 Site Certificates), OAR 345-027-0023 (Site Specific Conditions), OAR 345-027-0028 (Monitoring  
26 Conditions) and in OAR Chapter 345, Division 26 (Construction and Operation Rules for Facilities). These  
27 conditions should be read together with the additional specific facility conditions in section V to ensure  
28 compliance with the siting standards of OAR Chapter 345, Divisions 22 and 24 and to protect the public  
29 health and safety. [Amendments #1 and #4]

30  
31 The Council recognizes that many specific tasks related to the design, construction, operation  
32 and retirement of the facility will be undertaken by agents or contractors. However, ~~FPL Vansycle~~ FPL  
33 Energy Vansycle, LLC is responsible for ensuring compliance with all provisions of the site certificate  
34 pertaining to Stateline 1&2, and ~~FPL Stateline Vansycle II Wind, LLC~~ is responsible for ensuring  
35 compliance with all provisions of the site certificate pertaining to Vansycle II. [Amendments #4 and #8].

36  
37 Citation to the sources of, or basis for, certain conditions are shown in parentheses.<sup>3</sup> Conditions  
38 are numbered continuously throughout sections IV through IX of this site certificate. [Amendment #4]

39  
40 In applying the conditions in this section, “certificate holder” means ~~FPL Vansycle~~ FPL Energy  
41 Vansycle, LLC with regard to Stateline 1&2 and ~~FPL Stateline Vansycle II Wind, LLC~~ with regard to  
42 Vansycle II. [Amendments #4 and #8]

43  

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<sup>3</sup> References to the site certificate application are to the application as modified by the supplement and later revisions, abbreviated as “App.”

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**1. General Conditions**

**(1)** The Council may not change the conditions of the site certificate except as provided for in OAR Chapter 345, Division 27. (OAR 345-025-0006(1)) [Amendment #6]

**(2)** The certificate holder shall design, construct, operate and retire the facility:  
(a) Substantially as described in the site certificate;  
(b) In compliance with the requirements of ORS Chapter 469, applicable Council rules, and applicable state and local laws, rules and ordinances in effect at the time the site certificate is issued; and  
(c) In compliance with all applicable permit requirements of other state agencies.  
(OAR 345-025-0006(3)) [Amendment #6]

**(3)** The certificate holder shall begin and complete construction of the facility by the dates specified in the site certificate. (345-025-0006(4)) See conditions (24), (97) and (106). [Amendment #4, #6]

**(4)** The certificate holder shall prevent the development of any conditions on the site that would preclude restoration of the site to a useful, non-hazardous condition to the extent that prevention of such site conditions is within the control of the certificate holder. (345-025-0006(7)) [Amendment #6]

**(5)** The Council shall include as conditions in the site certificate all representations in the site certificate application and supporting record the Council deems to be binding commitments made by the applicant. (OAR 345-025-0006(10)) [Amendment #6]

**(6)** For the related or supporting transmission lines:  
(a) The certificate holder shall design, construct and operate the transmission line in accordance with the requirements of the National Electrical Safety Code (American National Standards Institute, Section C2, 1997 Edition); and  
(b) The certificate holder shall develop and implement a program that provides reasonable assurance that all fences, gates, cattle guards, trailers, or other objects or structures of a permanent nature that could become inadvertently charged with electricity are grounded or bonded throughout the life of the line. (OAR 345-025-0010(4)) [Amendment #4, #6]

**(7)** The following general monitoring conditions apply:  
(a) The certificate holder shall consult with affected state agencies, local governments and tribes and shall develop specific monitoring programs for impacts to resources protected by the standards of divisions 22 and 24 of OAR Chapter 345 and resources addressed by applicable statutes, administrative rules and local ordinances. The certificate holder must submit the monitoring programs to the Department of Energy and receive Department approval before beginning construction or, as appropriate, operation of the facility.  
(b) The certificate holder shall implement the approved monitoring programs described in section (a) and monitoring programs required by permitting agencies and local governments.  
(c) For each monitoring program described in sections (a) and (b), the certificate holder shall have quality assurance measures approved by the Department before beginning construction or, as appropriate, before beginning commercial operation.

1 (d) If the certificate holder becomes aware of a significant environmental change or impact  
2 attributable to the facility, the certificate holder shall, as soon as possible, submit a written  
3 report to the Department describing the impact on the facility and any affected site  
4 certificate conditions.

5 (OAR 345-027-0028) [Amendment #4]  
6

7 **(8)** The certificate holder shall report according to the following requirements:

8 (a) General reporting obligation for energy facilities under construction or operating:

9 (i) Within six months after beginning construction, and every six months thereafter during  
10 construction of the energy facility and related or supporting facilities, the certificate  
11 holder shall submit a semiannual construction progress report to the Department of  
12 Energy. In each construction progress report, the certificate holder shall describe any  
13 significant changes to major milestones for construction. The certificate holder shall  
14 include such information related to construction as specified in the site certificate.  
15 When the reporting date coincides, the certificate holder may include the construction  
16 progress report within the annual report described in this rule;

17 (ii) By April 30 of each year after beginning construction, the certificate holder shall submit  
18 an annual report to the Department addressing the subjects listed in this rule. The  
19 Council Secretary and the certificate holder may, by mutual agreement, change the  
20 reporting date.

21 (iii) To the extent that information required by this rule is contained in reports the  
22 certificate holder submits to other state, federal or local agencies, the certificate holder  
23 may submit excerpts from such other reports to satisfy this rule. The Council reserves  
24 the right to request full copies of such excerpted reports.

25 (b) In the annual report, the certificate holder shall include the following information for the  
26 calendar year preceding the date of the report:

27 (i) Facility Status: An overview of site conditions, the status of facilities under construction  
28 and a summary of the operating experience of facilities that are in operation. In this  
29 section of the annual report, the certificate holder shall describe any unusual events,  
30 such as earthquakes, extraordinary windstorms, major accidents or the like that  
31 occurred during the year and that had a significant adverse impact on the facility.

32 (ii) Reliability and Efficiency of Power Production: For electric power plants, the plant  
33 availability and capacity factors for the reporting year. The certificate holder shall  
34 describe any equipment failures or plant breakdowns that had a significant impact on  
35 those factors and shall describe any actions taken to prevent the recurrence of such  
36 problems.

37 (iii) Fuel Use: For thermal power plants:

38 (A) The efficiency with which the power plant converts fuel into electric energy. If the  
39 fuel chargeable to power heat rate was evaluated when the facility was sited, the  
40 certificate holder shall calculate efficiency using the same formula and assumptions,  
41 but using actual data; and

42 (B) The facility's annual hours of operation by fuel type and, every five years after  
43 beginning operation, a summary of the annual hours of operation by fuel type as  
44 described in OAR 345-024-0590(5).

45 (iv) Status of Surety Information: Documentation demonstrating that the bonds or letters  
46 of credit as described in the site certificate are in full force and effect and will remain in  
47 full force and effect for the term of the next reporting period.

- (v) Monitoring Report: A list and description of all significant monitoring and mitigation activities performed during the previous year in accordance with site certificate terms and conditions, a summary of the results of those activities, and a discussion of any significant changes to any monitoring or mitigation program, including the reason for any such changes.
  - (vi) Compliance Report: A description of all instances of noncompliance with a site certificate condition. For ease of review, the certificate holder shall, in this section of the report, use numbered subparagraphs corresponding to the applicable sections of the site certificate.
  - (vii) Facility Modification Report: A summary of changes to the facility that the certificate holder has determined do not require a site certificate amendment in accordance with OAR 345-027-0050.
  - (viii) Nongenerating Facility Carbon Dioxide Emissions: For nongenerating facilities that emit carbon dioxide, a report of the annual fuel use by fuel type and annual hours of operation of the carbon dioxide emitting equipment as described in OAR 345-024-0630(4).
- (OAR 345-026-0080) [Amendment #4]

**(9)** [Condition removed by Amendment #4]

**(10)** The certificate holder and the Department of Energy shall exchange copies of all correspondence or summaries of correspondence related to compliance with statutes, rules and local ordinances on which the Council determined compliance, except for material withheld from public disclosure under state or federal law or under Council rules. The certificate holder may submit abstracts of reports in place of full reports; however, the certificate holder shall provide full copies of abstracted reports and any summarized correspondence at the request of the Department. (OAR 345-026-0105) [Amendment #4]

## **2. Conditions That Must Be Met Before Construction Begins**

**(11)** Except as necessary for the initial survey or as otherwise allowed for wind energy facilities, transmission lines or pipelines under OAR 345-027-0020(5), the certificate holder shall not begin construction, as defined in OAR 345-001-0010, or create a clearing on any part of the site until the certificate holder has construction rights on all parts of the site. For the purpose of this rule, “construction rights” means the legal right to engage in construction activities. For wind energy facilities, transmission lines or pipelines, if the certificate holder does not have construction rights on all parts of the site, the certificate holder may nevertheless begin construction, as defined in OAR 345-001-0010, or create a clearing on a part of the site if the certificate holder has construction rights on that part of the site and:

- (a) The certificate holder would construct and operate part of the facility on that part of the site even if a change in the planned route of the transmission line or pipeline occurs during the certificate holder's negotiations to acquire construction rights on another part of the site; or
- (b) The certificate holder would construct and operate part of a wind facility on that part of the site even if other parts of the facility were modified by amendment of the site certificate or were not built.

1 (OAR 345-025-0006(5)) [Amendment #4, #6]  
2

3 **(12)** Following receipt of a site certificate or an amended site certificate, the certificate holder shall  
4 implement a plan that verifies compliance with all site certificate terms and conditions and  
5 applicable statutes and rules. As a part of the compliance plan, to verify compliance with the  
6 requirement to begin construction by the date specified in the site certificate, the certificate  
7 holder shall report promptly to the Department of Energy when construction begins. Construction  
8 is defined in OAR 345-001-0010. In reporting the beginning of construction, the certificate holder  
9 shall describe all work on the site performed before beginning construction, including work  
10 performed before the Council issued the site certificate, and shall state the cost of that work. For  
11 the purpose of this exhibit, "work on the site" means any work within a site or corridor, other than  
12 surveying, exploration or other activities to define or characterize the site or corridor. The  
13 certificate holder shall document the compliance plan and maintain it for inspection by the  
14 Department or the Council. (OAR 345-026-0048) [Amendment #4, #6]  
15

16 **(13)** The certificate holder shall submit a legal description of the site to the Department of Energy  
17 within 90 days after beginning operation of the facility. The legal description required by this rule  
18 means a description of metes and bounds or a description of the site by reference to a map and  
19 geographic data that clearly and specifically identifies the outer boundaries that contain all parts  
20 of the facility. (OAR 345-025-0006(2)) [Amendment #4, #6] See Condition (84).  
21

22 **(14)** If the Council requires mitigation based on an affirmative finding under any standards of Division  
23 22 or Division 24 of this chapter, the certificate holder shall consult with affected state agencies  
24 and local governments designated by the Council and shall develop specific mitigation plans  
25 consistent with Council findings under the relevant standards. The certificate holder must submit  
26 the mitigation plans to the Office and receive Office approval before beginning construction or, as  
27 appropriate, operation of the facility. (OAR 345-027-0020(6))  
28

29 **(15)** Before beginning construction of the facility, the certificate holder shall submit to the State of  
30 Oregon, through the Council, a bond or letter of credit in a form and amount satisfactory to the  
31 Council. The certificate holder shall maintain the bond or letter of credit in effect at all times until  
32 the facility has been retired. The Council may specify different amounts for the bond or letter of  
33 credit during construction and during operation of the facility. (OAR 345-025-0006(8))  
34 See Conditions (80) and (109). [Amendment #4, #6]  
35

### 36 **3. Conditions That Apply During Construction** 37

38 **(16)** The certificate holder shall design, engineer and construct the facility to avoid dangers to human  
39 safety presented by seismic hazards affecting the site that are expected to result from all  
40 maximum probable seismic events. As used in this rule "seismic hazard" includes ground shaking,  
41 landslide, liquefaction, lateral spreading, tsunami inundation, fault displacement and subsidence.  
42 (OAR 345-025-0006(12)) [Amendment #6]  
43

44 **(17)** The certificate holder shall notify the Department, the State Building Codes Division and the  
45 Department of Geology and Mineral Industries promptly if site investigations or trenching reveal  
46 that conditions in the foundation rocks differ significantly from those described in the application  
47 for a site certificate. After the Department receives the notice, the Council may require the

1 certificate holder to consult with the Department of Geology and Mineral Industries and the  
2 Building Codes Division and to propose mitigation actions. (OAR 345-025-0006(13)) [Amendment  
3 #4, #6]  
4

- 5 **(18)** The certificate holder shall notify the Department, the State Building Codes Division and the  
6 Department of Geology and Mineral Industries promptly if shear zones, artesian aquifers,  
7 deformations or clastic dikes are found at or in the vicinity of the site. (OAR 345-025-0006(14))  
8 [Amendment #4, #6]  
9

#### 10 **4. Conditions That Must Be Met Before Operation Begins**

- 11  
12 **(19)** The certificate holder shall retire the facility if the certificate holder permanently ceases  
13 construction or operation of the facility. The certificate holder shall retire the facility according to a  
14 final retirement plan approved by the Council, as described in OAR 345-027-0410. The certificate  
15 holder shall pay the actual cost to restore the site to a useful, non-hazardous condition at the time  
16 of retirement, notwithstanding the Council’s approval in the site certificate of an estimated  
17 amount required to restore the site. (OAR 345-025-0006(9)) [Amendment #4, #6]  
18

- 19 **(20)** Upon completion of construction, the certificate holder shall restore vegetation to the extent  
20 practicable and shall landscape portions of the site disturbed by construction in a manner  
21 compatible with the surroundings and proposed use. Upon completion of construction, the  
22 certificate holder shall remove all temporary structures not required for facility operation and  
23 dispose of all timber, brush, refuse and flammable or combustible material resulting from clearing  
24 of land and construction of the facility. (OAR 345-025-0006(11)) [Amendment #4, #6]  
25

- 26 **(21)** If the proposed energy facility is a pipeline or a transmission line or has, as a related or supporting  
27 facility, a pipeline or transmission line, the Council shall specify an approved corridor in the site  
28 certificate and shall allow the certificate holder to construct the pipeline or transmission line  
29 anywhere within the corridor, subject to the conditions of the site certificate. If the applicant has  
30 analyzed more than one corridor in its application for a site certificate, the Council may, subject to  
31 the Council’s standards, approve more than one corridor. (OAR 345-027-0023(5)) [Amendment #4]  
32

#### 33 **5. Conditions That Must Be Met During Operation**

- 34  
35 **(22)** [Condition removed by Amendment #4]  
36

- 37 **(23)** The certificate holder shall notify the Department of Energy within 72 hours of any occurrence  
38 involving the facility if:

- 39 (a) There is an attempt by anyone to interfere with its safe operation;  
40 (b) A natural event such as an earthquake, flood, tsunami or tornado, or a human-caused event  
41 such as a fire or explosion affects or threatens to affect the public health and safety or the  
42 environment; or  
43 (c) There is any fatal injury at the facility.

44 (OAR 345-026-0170) [Amendment #4]  
45

#### 46 **V. SPECIFIC FACILITY CONDITIONS**

47

1 The conditions listed in this section include conditions based on representations in the site  
2 certificate application and supporting record. The Council deems these representations to be binding  
3 commitments made by the applicant. These conditions are required under OAR 345-027-0020(10).  
4 [Amendments #1 and #4]

5  
6 This section includes other specific facility conditions the Council finds necessary to ensure  
7 compliance with the siting standards of OAR Chapter 345, Divisions 22 and 24, and to protect the public  
8 health and safety.

9  
10 Citation to the sources of, or basis for, certain conditions are shown in parentheses.  
11 [Amendment #4]

12  
13 Except as specifically noted, these conditions apply to all phases of the Stateline Wind Project. In  
14 applying the conditions in this section, “certificate holder” means ~~FPL Vansycle~~FPL Energy Vansycle, LLC  
15 with regard to Stateline 1&2 and ~~FPL Stateline Vansycle II Wind, LLC~~ with regard to Vansycle II.  
16 [Amendment #4 and #8]

## 17 18 **1. General Conditions**

19  
20 **(24)** This condition applies to Stateline 1 only. The certificate holder shall begin construction of  
21 Stateline 1 within one year after the effective date of the site certificate. The certificate holder  
22 shall complete construction of Stateline 1 on or before two years from the effective date of the  
23 site certificate. Under OAR 345-015-0085(9), a site certificate is effective upon execution by the  
24 Council Chair and the applicant. Completion of construction occurs upon the date commercial  
25 operation of Stateline 1 begins. The Council may grant an extension of the construction beginning  
26 or completion deadlines in accordance with OAR 345-027-0030 or any successor rule in effect at  
27 the time the request for extension is submitted. [Amendment #4]  
28 See condition (3).

29  
30 **(25)** Within 72 hours of discovery of conditions or circumstances that may violate the terms or  
31 conditions of the site certificate, the certificate holder shall report the conditions or circumstances  
32 to the Department of Energy. (OAR 345-027-0020(3)) [Amendment #4]

33  
34 **(26)** Notwithstanding OAR 345-027-0050(2), an amendment of the site certificate is required if the  
35 proposed change would increase the electrical generation capacity of the facility and would  
36 increase the number of wind turbines or the dimensions of existing wind turbines. (OAR 345-027-  
37 0020(3))

38  
39 **(27)** [Condition removed by Amendment #4]

40  
41 **(28)** The certificate holder shall report promptly to the Department of Energy any change in its  
42 corporate relationship with NextEra Energy Resources LLC. The certificate holder shall report  
43 promptly to the Department any change in its access to the resources, expertise and personnel of  
44 NextEra Energy Resources LLC. (App A-3, D-2, OAR 345-022-0010) [Amendment #4, #5]

45  
46 **(29)** The certificate holder shall inspect and maintain all roads, pads and trenched areas to minimize  
47 erosion. (App B-11) [Amendment #5]



- 1  
2 **(30)** The certificate holder shall carry out weed control and reseedling as necessary for the life of the  
3 facility, in consultation with the weed control board of Umatilla County. (App B-11) [Amendment  
4 #5]  
5
- 6 **(31)** The certificate holder shall not store fuel or chemicals in Oregon. (App B-12)  
7
- 8 **(32)** The certificate holder shall use hazardous materials in a manner that is protective of human health  
9 and the environment and shall comply with all applicable local, state, and federal environmental  
10 laws and regulations. The certificate holder shall make sure that accidental releases of hazardous  
11 materials will be prevented or minimized through the proper containment of these substances  
12 during transportation and use on the site. The certificate holder shall make sure that any oily  
13 waste, rags or dirty or hazardous solid waste will be collected in sealable drums and removed for  
14 recycling or disposal by a licensed contractor. The certificate holder shall have spill kits containing  
15 items such as absorbent pads on equipment and in storage facilities to respond to accidental spills.  
16 If an accidental hazardous materials spill or release occurs, the certificate holder shall clean up the  
17 spill or release and shall treat or dispose of contaminated soil or other materials according to  
18 applicable regulations. (App G-2, V-3) [Amendment #5]  
19
- 20 **(33)** The certificate holder shall provide to the Department of Energy a copy of the contract with the  
21 Milton-Freewater Rural Fire Department for fire protection services during construction and  
22 operation of the facility before beginning construction. (App U-25) [Amendment #4, #5]  
23
- 24 **(34)** During construction and operation of the facility, the certificate holder shall have water-carrying  
25 trailers (“water buffaloes”) at appropriate locations around the facility. The certificate holder shall  
26 bring a water buffalo to any job site where there is a substantial risk of fire. The certificate holder  
27 shall coordinate with the fire chiefs of the Helix and Milton-Freewater Rural Fire Departments as to  
28 the number, capacity and location of the water buffaloes. The certificate holder shall make sure  
29 that each water buffalo has a minimum capacity of 350 gallons with sufficient pump and hose  
30 equipment, as approved by the local fire chiefs. The certificate holder shall have service trucks and  
31 pickup trucks capable of towing water buffaloes available in sufficient numbers at all times during  
32 construction and operation of the facility. (App B-12) [Amendment #5]  
33
- 34 **(35)** The certificate holder shall take steps to protect the facility and property from unauthorized access  
35 and to reduce the risk of accidental injury during construction and operations by (App U-25, 26)  
36 [Amendment #3, #5]:  
37 (a) Maintaining fencing and access gates around dangerous equipment or portions of the site as  
38 feasible. [Amendments #3, and #4]  
39 (b) Posting warning signs near high-voltage equipment.  
40 (c) Requiring construction contractors to provide specific job-related training to employees,  
41 including cardiopulmonary resuscitation, first aid, tower climbing, rescue techniques and  
42 safety equipment inspection.  
43 (d) Requiring each worker to be familiar with site safety.  
44 (e) Assigning safety officers to monitor construction activities and methods during each work  
45 shift.  
46 (f) Ensuring that workers on each shift are certified in first aid.

1 (g) Ensuring a well-stocked first-aid supply kit is accessible on-site at all times and that each  
2 worker knows its location.

3 (h) Conducting periodic safety meetings for construction and maintenance staff.  
4

5 **(36)** The certificate holder shall notify the Department of Energy and the Umatilla County Planning  
6 Department of any accidents including mechanical failures on the site associated with the  
7 operation of the wind power facility that may result in public health and safety concerns. (ORS  
8 469.310) [Amendment #4, #5]  
9

10 **(37)** To reduce the visual impact of the facility, the certificate holder shall:

11 (a) Design, construct and operate a facility consisting of the major structures and related or  
12 supporting facilities described in the Site Certificate. [Amendment #1, #2, #4]

13 (b) Group the turbines in strings of 2 to 37. [Amendment #1, #2, #4]

14 (c) Construct each turbine to be not more than 295 feet tall at the turbine hub and with a total  
15 height of not more than 499 feet with the nacelle and blades mounted (App B-5)  
16 [Amendment #4, #6]<sup>4</sup>

17 (d) Mount nacelles on smooth, hollow steel towers. [Amendment #4]

18 (e) Paint all towers uniformly in a neutral light gray or white color. [Amendment #2, #4]

19 (f) Not allow any advertising to be used on any part of the facility or on any signs posted at the  
20 facility, except that the turbine manufacturer's logo may appear on turbine nacelles. (App  
21 BB-2)

22 (g) Use only the minimum lighting on its turbine strings required by the Federal Aviation  
23 Administration, except:

24 (i) The Stateline 1&2 satellite operations and maintenance building may have a small  
25 amount of low-impact exterior lighting for security purposes (App BB-2).

26 (ii) Low-impact lighting may be used for occasional nighttime repairs, operations or  
27 maintenance at the substation (at other times this lighting would be turned off).

28 (iii) Security lighting may be used at the Vansycle II O&M building and substation if it is  
29 shielded or downward-directed to reduce glare.

30 [Amendment #2, #4]

31 (h) Use only those signs required for facility safety or required by law and comply with Umatilla  
32 County design requirements for signs as described in UCDC Sections 152.545 through  
33 152.548. (App BB-2) [Amendment #4]

34 (i) Design and construct the operation and maintenance building to be generally consistent with  
35 the character of similar buildings used by commercial farmers or ranchers. Upon retirement  
36 of the energy facility, the operations and maintenance building must be removed or  
37 converted to farm use, in accordance with Condition 19. [Amendment #3, #4]  
38

39 **(38)** To restrict public access to turbine towers, the certificate holder shall install locked access doors  
40 accessible only to authorized project staff. (App BB-3)  
41

42 **(39)** If any state-listed threatened, endangered or candidate plant species are found during the pre-  
43 construction surveys described in condition (55), the certificate holder shall use appropriate

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<sup>4</sup> See also site certificate Condition 137.

1 measures to protect the species and mitigate for impacts from construction, operation and  
2 retirement of the facility. See condition (55).  
3

4 **(40)** In constructing and operating the facility, the certificate holder shall make reasonable efforts not  
5 to disturb the farming and ranching activities on adjacent lands. (App K-6) [Amendment #5]  
6

7 **(41)** If the certificate holder elects to use a bond to meet the requirements of Conditions (80) or (109),  
8 the certificate holder shall ensure that the surety is obligated to comply with the requirements of  
9 applicable statutes, Council rules and this site certificate when the surety exercises any legal or  
10 contractual right it may have to assume construction, operation or retirement of the energy  
11 facility. The certificate holder shall also assure that the surety is obligated to notify the Council that  
12 it is exercising such rights and to obtain any Council approvals required by applicable statutes,  
13 Council rules and this site certificate before the surety commences any activity to complete  
14 construction, operate or retire the energy facility. [Amendment #1, #2, #4, #5] See Condition (2).  
15

## 16 **2. Conditions That Must Be Met Before Construction Begins** 17

18 **(42)** The certificate holder shall notify the Department of Energy in advance of any initial road  
19 improvement work that does not meet the definition of “construction” in OAR 345-001-0010(10)  
20 or ORS 469.300(6) and shall provide to the Department plans of the work and evidence that its  
21 value is less than \$250,000. (App B-21) [Amendment #4, #5]  
22

23 **(43)** [Condition removed by Amendment #4]  
24

25 **(44)** The certificate holder shall locate roads to minimize disturbance and maximize transportation  
26 efficiency and to avoid sensitive resources and unsuitable topography. The certificate holder shall  
27 use existing county roads and private farm roads to the maximum extent feasible. The certificate  
28 holder shall coordinate farm road improvements with landowners to minimize crop impacts and to  
29 assure that the final road provides useful access, where possible, to the landowners’ fields. (App B-  
30 6)  
31

32 **(45)** The certificate holder shall videotape all Umatilla County roads used as access to the facility and  
33 shall require construction contractors to enter into a written agreement with Umatilla County  
34 stating that all roads used by the contractor will be restored to as good or better condition than  
35 they were before construction. (App U-24)  
36

37 **(46)** The certificate holder shall notify the Department of Energy of the identity and qualifications of  
38 major construction contractors for the facility. The certificate holder shall select major  
39 construction contractors based on a proven record of environmental compliance and stewardship,  
40 a clean record in terms of other regulatory obligations and other appropriate factors. (App D-3, 4)  
41 [Amendment #4, #5]  
42

43 **(47)** The certificate holder shall contractually require all construction contractors and subcontractors  
44 involved in the construction of the facility to comply with all applicable laws and regulations and  
45 with the terms and conditions of the site certificate. Such contractual provisions shall not operate  
46 to relieve the certificate holder of responsibility under the site certificate.  
47 See condition (2). [Amendment #5]

- 1  
2 **(48)** The certificate holder shall require that all on-site construction contractors prepare a site health  
3 and safety plan before beginning construction activities. The certificate holder shall ensure that  
4 the plan informs employees and others onsite what to do in case of emergencies and includes the  
5 locations of fire extinguishers and nearby hospitals, important telephone numbers and first aid  
6 techniques. (App U-25) [Amendment #5]  
7
- 8 **(49)** The certificate holder shall design the facility in accordance with seismic design provisions given in  
9 the Oregon Building Code. The certificate holder shall identify localized areas of  $S_C$  and  $S_D$  soil types  
10 and assure that any structures to be built in those areas are designed according to the code. The  
11 certificate holder shall design all components constructed after 2008 to meet the current Oregon  
12 Structural Specialty Code (OSSC 2007) and the 2006 International Building Code. [Amendment #4,  
13 #5]  
14
- 15 **(50)** The certificate holder shall provide the Department of Energy with design specifications showing  
16 the locations of turbines and type of foundations to be employed and demonstrating that the  
17 following conditions have been satisfied (OAR 345-022-0020):  
18 (a) If a turbine is located within 50 feet of a slope steeper than  $30^\circ$ , the stability of the slope has  
19 been reviewed by the foundation designer to confirm that either (i) the slope has a safety  
20 factor of at least 1.1 during the maximum probable seismic event or (ii) the safety factor is  
21 less than 1.1, but ground displacements will not adversely affect the stability of the wind  
22 turbine. Slopes shall be evaluated in the field for each proposed turbine location.  
23 (b) The foundation designer's review of slope displacement during a seismic event has been  
24 made using a pseudo-static horizontal coefficient of 0.13g and, if the safety factor is less  
25 than 1.1, the foundation designer has shown that (i) the movement will not intersect the  
26 turbine, (ii) the movement will intersect the turbine but will not affect its stability, or (iii)  
27 additional stabilization measures, such as anchor tie-downs or ground support systems, will  
28 be employed to maintain stability.  
29 (c) If a turbine is located where power generating or other requirements preclude sufficient  
30 setback distances to avoid intersection of a moving slope with the turbine foundation, the  
31 foundation designer has demonstrated that the turbine foundation will withstand loads  
32 from the moving soil or has been equipped with ground support systems that will withstand  
33 loads from moving soil.  
34 (d) The foundation designer has confirmed that the turbines and conduit can tolerate some  
35 movement without instability or breakage if a mapped fault were to rupture.  
36 [Amendment #4]  
37
- 38 **(51)** In modifying slope angles for roads or other facilities, the certificate holder shall assure that the  
39 foundation designer has achieved a factor of safety of 1.5 or greater for permanent structures and  
40 a factor of safety of 1.3 or greater for temporary structures. (OAR 345-022-0020)  
41
- 42 **(52)** The certificate holder shall design the facility to avoid or minimize adverse impacts to wildlife by  
43 measures including but not limited to the following (App P-41):  
44 (a) Siting the turbines on ridges outside of migration flyways.  
45 (b) Siting turbines to avoid placing turbines in saddle locations along ridges (where bird use is  
46 typically higher).  
47 (c) Avoiding the use of overhead collector lines. [Amendment #2, #4]

1  
2 **(53)** This condition does not apply to Stateline 2. The certificate holder shall survey the status of known  
3 Swainson’s hawk nests within the vicinity of proposed construction before the projected date for  
4 construction to begin. If active nests are found, and construction is scheduled to begin before the  
5 end of the sensitive nesting and breeding season (June 1 to August 31), the certificate holder shall  
6 develop a no-construction buffer in consultation with ODFW and shall not engage in construction  
7 activities within the buffer until the sensitive season has ended. If construction continues into the  
8 sensitive nesting and breeding season for the following year, the certificate holder shall not  
9 engage in construction activities within the buffer around active nests until the sensitive season  
10 has ended. [Amendments #2, #4, #5]  
11

12 **(54)** This condition does not apply to Stateline 2. The certificate holder shall conduct appropriate pre-  
13 construction nest surveys for burrowing owls if construction is scheduled to occur during the  
14 sensitive period (March 15 to August 30). The certificate holder shall leave a no-construction  
15 buffer, developed in consultation with ODFW, around any active nests during the sensitive period.  
16 [Amendments #2, #4, #5]  
17

18 **(55)** This condition does not apply to Stateline 2. The certificate holder shall conduct pre-construction  
19 surveys for state-listed threatened, endangered or candidate plant species in all areas not included  
20 in earlier botanical surveys of the analysis area. If any listed plants are found, the certificate holder  
21 will notify the Department of Energy and consult with the Oregon Department of Agriculture  
22 regarding appropriate measures to protect the species and mitigate for impacts from construction,  
23 operation and retirement of the facility. (App Q-7) [Amendment #4, #5]  
24

25 **(56)** This condition does not apply to Stateline 2. The certificate holder shall conduct appropriate pre-  
26 construction surveys for the presence of Washington ground squirrels in construction zones that  
27 have suitable habitat. Construction zones include the areas of permanent and temporary  
28 disturbance and a 175-foot surrounding buffer in which there may be incidental construction  
29 impacts. If squirrel activity is found, the certificate holder shall notify the Department of Energy  
30 and develop an appropriate no-construction buffer and other appropriate mitigation measures in  
31 consultation with the Department and ODFW. In addition, the certificate holder shall map and  
32 stake sensitive areas to be avoided during construction as required by Condition (63).  
33 [Amendments #2, #4, #5]  
34

### 35 **3. Conditions That Apply During Construction**

36  
37 **(57)** The certificate holder shall report to the Council any change of major construction contractors.  
38 See condition (8).  
39

40 **(58)** The certificate holder shall take steps to prevent fires during construction including but not limited  
41 to (App U-25):

- 42 (a) Establishing roads before accessing the site to allow vehicles to stay away from grass.
- 43 (b) Using diesel vehicles whenever possible to prevent potential ignition by catalytic converters.
- 44 (c) Avoiding idling vehicles in grassy areas.
- 45 (d) Keeping cutting torches and similar equipment away from grass.
- 46 (e) Making sure that all construction personnel receive appropriate fire-safety instruction from  
47 qualified local fire departments or qualified fire-fighting trainers on the job site.

1 (f) Making sure that fire-fighting equipment is available at all active parts of the job site.  
2 [Amendment #5]  
3

4 **(59)** The certificate holder shall require the foundation designer to inspect excavations during  
5 construction of foundations for the turbines and other facilities to confirm that geologic conditions  
6 are appropriate for supporting the turbines during gravity, seismic and wind loading. (OAR 345-  
7 022-0020)  
8

9 **(60)** The certificate holder shall conduct all construction work in compliance with an Erosion and  
10 Sediment Control Plan (ESCP) satisfactory to the Oregon Department of Environmental Quality and  
11 as required under the facility's National Pollutant Discharge Elimination System (NPDES)  
12 Construction Stormwater Permit. The certificate holder shall include in the ESCP any procedures  
13 necessary to meet local erosion and sediment control requirements or stormwater management  
14 requirements. (App B-7, 13, E-3, P-41) [Amendment #5]  
15

16 **(61)** The certificate holder shall mitigate potential adverse impacts to soils from erosion and  
17 compaction by measures including but not limited to the following (App H-17, I-4, 5):  
18 (a) Maintaining vegetative buffer strips between the areas impacted by construction activities  
19 and any receiving waters.  
20 (b) Installing sediment fence/straw bale barriers at locations shown on the plans.  
21 (c) Wherever feasible, constructing roadways so that surface drainage continues along natural  
22 drainage patterns with minimal diversions through ditches and culverts.  
23 (d) Working with the Umatilla County Public Works Department and the local Natural Resources  
24 Conservation Service office to design water bars and other management practices to slow  
25 the flow of water on newly constructed repaired roads.  
26 (e) Straw mulching and discing at locations adjacent to the road that have been impacted.  
27 (f) Providing temporary sediment traps downstream of intermittent stream crossings.  
28 (g) Providing sediment type mats downstream of perennial stream crossings.  
29 (h) Planting designated seed mixes at impacted areas adjacent to the roads.  
30 (i) Installing sediment fencing along the downslope side of construction equipment staging  
31 areas.  
32 (j) Seeding all areas that are impacted by construction and reseeding as necessary to establish a  
33 healthy cover crop.  
34 (k) Leaving sediment fencing, check dams (k) and other erosion control measures in place until the  
35 impacted areas are well vegetated and the risk of erosion has been eliminated.  
36 (l) Limiting truck and heavy equipment traffic, to the extent possible, to improved road surfaces,  
37 and thereby limiting soil compaction and disturbances.  
38 (m) Scarifying and reseeding compacted areas after construction is completed.  
39 (n) Using appropriate erosion control methods to limit soil loss due to water and wind action.  
40 (o) Covering roads and turbine pads with gravel immediately following exposures, thereby  
41 limiting the time for wind or water erosion. (App I-2, 3)  
42 (p) Using water for dust suppression during construction. (App O-1)  
43 [Amendment #5]  
44

45 **(62)** The certificate holder shall place underground electrical and communications cables at a minimum  
46 depth of three feet below grade in trenches along the length of each turbine string corridor and in  
47 some cases in trenches from the end of one turbine string to the end of an adjacent turbine string.

1 The certificate holder shall excavate trenches and segregate the topsoil from subsoil. After  
2 installing the electrical or communications cables and within two weeks of trenching, the  
3 certificate holder shall backfill the trenches and replace topsoil on top. The certificate holder shall  
4 reseed the area with native grasses or other plants appropriate to the location. (App B-8, I-2, W-2)  
5

6 **(63)** The certificate holder shall mitigate possible impacts to wildlife by measures including but not  
7 limited to the following (App P-42 through 45, Q-10, 11):

8 (a) Preparing maps to show sensitive areas that are off-limits during the construction phase,  
9 distributing the maps to construction staff and having a biologist flag sensitive areas as  
10 needed.

11 (b) Minimizing road construction and vehicle use where possible.

12 (c) Posting speed limit signs throughout the construction zone.

13 (d) Instructing construction personnel (including all construction contractors and their  
14 personnel) on sensitive wildlife of the area and on required precautions to avoid injuring or  
15 destroying wildlife.

16 (e) Instructing construction personnel (including all construction contractors and their  
17 personnel) to watch out for wildlife while driving through the project area, to maintain  
18 reasonable driving speeds so as not to harass or accidentally strike wildlife and to be  
19 particularly cautious and drive at slower speeds in a period from one hour before sunset to  
20 one hour after sunrise when some wildlife species are the most active.

21 (f) Requiring all construction personnel to report any injured or dead wildlife detected at the  
22 facility site.

23 (g) Requiring all construction personnel to respect all staked wildlife areas and associated no-  
24 construction buffer areas.

25 [Amendment #5]  
26

27 **(64)** To avoid creating habitat for raptor prey near turbine towers, the certificate holder shall spread  
28 gravel on all above ground portions of the turbine pads to reduce the potential for weed  
29 infestation. (App BB-5)  
30

31 **(65)** The certificate holder shall mitigate possible impacts to fish and wildlife habitat by measures  
32 including but not limited to the following (App P-42 through 45, Q-10, 11):

33 (a) Avoiding vegetation removal wherever possible.

34 (b) Limiting construction activities to within public road right-of-ways where possible.

35 (c) Using best management practices to prevent erosion of soil into stream channels.

36 (d) Controlling invasive, weedy plant species during maintenance of project facilities.

37 (e) Restoring temporarily disturbed sites to pre-construction condition or better with native  
38 seed mixes as described for temporarily disturbed areas in the *Revegetation Plan* included in  
39 the Final Order on Amendment #4 as Attachment B and as revised from time to time.

40 [Amendments #1 and #4]

41 (f) Developing re-vegetation plant mixes and habitat enhancement locations in consultation  
42 with ODFW and the Umatilla County weed control board.

43 (g) Monitoring re-vegetated areas to ensure successful establishment of new vegetation.

44 (h) Monitoring turbine strings, roads and other disturbed areas regularly to prevent the spread  
45 of noxious weeds.

46 (i) Developing measures to reduce the potential spread of noxious weeds in consultation with  
47 the weed control board of Umatilla County.

48 [Amendment #5]

1  
2 **(66)** This condition applies to Stateline 1 only. To mitigate for the permanent elimination of one-half  
3 acre of Category 2 habitat, the certificate holder shall control weeds and enhance habitat of one  
4 acre of weed-infested upland habitat with native plants. The certificate holder shall carry out  
5 enhancement activities as described for habitat enhancement areas in the *Revegetation Plan*  
6 referenced in Condition 65. The certificate holder shall acquire the legal right to create and  
7 maintain the enhancement area for the life of the facility by means of an outright purchase,  
8 conservation easement or similar conveyance and shall provide a copy of the documentation to  
9 the Department of Energy. The certificate holder shall determine the location of this habitat  
10 enhancement area in consultation with ODFW and landowners. (App P-44) [Amendment #1, #4]  
11

12 **(67)** This condition does not apply to Vansycle II. To mitigate for the permanent elimination of  
13 approximately 48 acres of Category 3 habitat, the certificate holder shall control weeds and  
14 enhance habitat on an equal area of weed-infested land in the project vicinity. The certificate  
15 holder shall carry out enhancement activities as described for habitat enhancement areas in the  
16 *Revegetation Plan* referenced in Condition 65. The certificate holder shall acquire the legal right to  
17 create and maintain the enhancement area for the life of the facility by means of an outright  
18 purchase, conservation easement or similar conveyance and shall provide a copy of the  
19 documentation to the Department of Energy. The certificate holder shall determine the location of  
20 this habitat enhancement area in consultation with ODFW and landowners. (App P-44)  
21 [Amendment #1, #4, #6]  
22

23 **(68)** To minimize impacts to temporarily disturbed Category 6 habitat areas, the certificate holder shall  
24 use measures including but not limited to the following (App P-45):  
25 (a) Replacing agricultural topsoil to its pre-construction condition.  
26 (b) Using best management practices to prevent loss of topsoil during construction.  
27 (c) Reseeding native habitats with a native seed mix that includes at least some seed collected  
28 from the area as described for temporarily disturbed habitats in the *Revegetation Plan*  
29 referenced in Condition 65. [Amendments #1 and #4]  
30 (d) Controlling noxious weeds in areas disturbed by construction activities.  
31 [Amendment #5]  
32

33 **(69)** The certificate holder shall not place any part of the facility within any Washington ground squirrel  
34 (WGS) colony or on potential Washington ground squirrel burrows. The certificate holder shall  
35 have an on-site wildlife monitor who will flag habitat required for WGS survival (Category 1),  
36 conduct pre-construction surveys to determine the distribution of WGS in the area and ensure that  
37 construction personnel do not enter the area. The monitor shall conduct post construction  
38 monitoring to document distribution of the WGS in the area. [Amendment #2, #4, #5]  
39

40 **(70)** To reduce potential injury or fatality of migratory birds, the certificate holder shall (App Q-10):  
41 (a) Locate turbines away from saddles in long ridges.  
42 (b) Locate turbines on the top or slightly downwind side of distinct ridges and set back from the  
43 upwind (prevailing) side.  
44 (c) Use monopole design for all turbine and meteorological towers.  
45

46 **(71)** The certificate holder shall implement a waste management plan during construction that includes  
47 but is not limited to the following measures (App V-2):



- 1 (a) Collecting steel scrap and transporting it to a recycling facility.
- 2 (b) Recycling wood waste to the greatest extent feasible, depending on size and quantity of
- 3 scrap or leftover materials.
- 4 (c) Using concrete waste as fill on-site or at another site or, if no reuse option is available,
- 5 transporting it to a local landfill.
- 6 (d) Recycling packaging wastes (such as paper and cardboard).
- 7 (e) Collecting non-recyclable waste and transporting it to a local landfill.
- 8

9 **(72)** The certificate holder shall require that disposal of waste concrete on-site is conducted in  
10 accordance with OAR 340-093-0080, other applicable regulations and this condition. The  
11 construction contractor may bury waste concrete on-site with the permission of the landowner in  
12 the following manner: by placing the waste concrete in an excavated hole, covering it with at least  
13 three feet of topsoil and grading the area to match existing contours so that all buried concrete is  
14 at least three feet below grade. (App V-3, 4).

15  
16 **(73)** The certificate holder shall provide portable toilets for onsite sewage handling during construction  
17 and make sure that they are pumped and cleaned regularly by a licensed pumper who is qualified  
18 to pump and clean portable toilet facilities. The certificate holder shall minimize the generation of  
19 wastes from construction through detailed estimating of materials needs and through efficient  
20 construction practices. The certificate holder shall recycle any wastes generated during  
21 construction as much as feasible and shall collect any non-recyclable wastes and transport such  
22 wastes to a local landfill. (App B-13, G-3, V-2) [Amendment #5]

23  
24 **(74)** The certificate holder shall have a full-time on-site assistant construction manager, qualified in  
25 environmental compliance and familiar with all site certificate conditions, to observe contractor  
26 waste management practices and to assure compliance with applicable regulations and  
27 construction site policy. (App V-4) [Amendment #5]

28  
29 **(75)** The certificate holder shall post high-visibility no-entry barriers around recorded cultural and  
30 archaeological sites and shall ~~to~~ ensure that construction workers stay away from the vicinity of  
31 the sites. The certificate holder shall locate barriers to create a buffer with a minimum width of 30  
32 meters between the sites and construction activities. The certificate holder shall have a qualified  
33 cultural resource expert to monitor the avoidance of the no-entry areas by construction workers  
34 and to monitor ground disturbing activities. The certificate holder shall select a cultural resource  
35 expert chosen by the Confederated Tribes of the Umatilla Indian Reservation, if available, or shall  
36 select a qualified cultural resource expert, subject to Department approval, to conduct the  
37 monitoring. [Amendment #4]

38  
39 **(76)** If previously unidentified cultural resources are encountered during construction, the certificate  
40 holder shall halt earth-disturbing activities in the immediate vicinity of the find, in accordance with  
41 Oregon state law (ORS 97.745 and 358.920), and shall notify the Department of Energy, the  
42 Oregon State Historic Preservation Officer (SHPO) and the Confederated Tribes of the Umatilla  
43 Indian Reservation (CTUIR). The certificate holder shall have a qualified archaeologist evaluate the  
44 discovery and recommend subsequent courses of action in consultation with the CTUIR and the  
45 SHPO. If human remains are discovered, the certificate holder shall halt all construction activities  
46 in the immediate area and shall notify the Department, SHPO, CTUIR, the County Medical  
47 Examiner and the State Police. [Amendment #4]

1  
2 **(77)** The certificate holder shall include traffic control procedures in contract specifications for  
3 construction of the facility. The certificate holder shall require flaggers to be at appropriate  
4 locations at appropriate times during construction to direct traffic and to ensure minimal conflicts  
5 between harvest and construction vehicles. (App U-24) [Amendment #5]  
6

7 **(78)** The certificate holder shall confine the noisiest construction activities to the daylight hours. (App  
8 X-8) [Amendment #5]  
9

10 **(79)** This condition does not apply to Vansycle II. The certificate holder shall construct the cable  
11 crossing of Vansycle Canyon at a time when the stream is dry. The certificate holder shall remove  
12 no more than approximately 7.5 cubic yards of material from the streambed crossing and shall  
13 replace a like amount of fill material after the cable has been laid, restoring the area similar to the  
14 original contours of the streambed. (Linehan, July 23 letter, 3) [Amendment #4, #7<sup>5</sup>]  
15

#### 16 **4. Conditions That Must Be Met Before Operation Begins** 17

18 **(80)** This condition applies to Stateline 1&2 only. Within 90 days after the effective date of the Fourth  
19 Amended Site Certificate, the certificate holder shall submit to the State of Oregon through the  
20 Council a bond or letter of credit in the amount of \$6.160 million (1<sup>st</sup> Quarter 2009 dollars), to be  
21 adjusted to the date of issuance as described in (a), naming the State of Oregon, acting by and  
22 through the Council, as beneficiary or payee.

23 (a) Subject to approval by the Department, the certificate holder shall adjust the amount of the  
24 bond or letter of credit on an annual basis using the following calculation:

25 (i) Adjust the Subtotal (1<sup>st</sup> Quarter 2009 dollars) shown in Table 1 of the Final Order on  
26 Amendment #4 to present value, using the U.S. Gross Domestic Product Implicit Price  
27 Deflator, Chain-Weight, as published in the Oregon Department of Administrative  
28 Services' "Oregon Economic and Revenue Forecast," or by any successor agency (the  
29 "Index"), and using the index value for 1<sup>st</sup> Quarter 2009 dollars and the quarterly index  
30 value for the date of issuance of the new bond or letter of credit. If at any time the  
31 Index is no longer published, the Council shall select a comparable calculation to adjust  
32 1<sup>st</sup> Quarter 2009 dollars to present value.

33 (ii) Add 1 percent of the adjusted Subtotal (i) for the adjusted performance bond amount to  
34 determine the adjusted Gross Cost.

35 (iii) Add 10 percent of the adjusted Gross Cost (ii) for the adjusted administration and  
36 project management costs and 10 percent of the adjusted Gross Cost (ii) for the  
37 adjusted future developments contingency.

38 (iv) Add the adjusted Gross Cost (ii) to the sum of the percentages (iii) to determine the  
39 adjusted Full Cost, and round the resulting total to the nearest \$1,000 to determine the  
40 adjusted financial assurance amount for the reporting year.

41 (b) The certificate holder shall use a form of bond or letter of credit approved by the Council.

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<sup>5</sup> Note that the Final Order on Amendment #5 to the Stateline Wind Project Site Certificate changed the name of "Stateline 3" to "Vansycle II". Any remaining reference in this Site Certificate (including condition references) of "Stateline 3" were changed to "Vansycle II" in the Seventh Amended Site Certificate.

- 1 (c) The certificate holder shall use an issuer of the bond or letter of credit approved by the  
2 Council.  
3 (d) The bond or letter of credit shall not be subject to revocation or reduction before retirement  
4 of the energy facility.  
5 (e) The certificate holder shall describe the status of the bond or letter of credit in the annual  
6 report submitted to the Council under Condition (8).

7 See Conditions (19) and (41).  
8 [Amendment #4]  
9

10 **(81)** After construction is complete, the certificate holder shall restore the county roads to at least their  
11 pre-project condition, to the satisfaction of the county public works department. (App B-6, 9)  
12 [Amendment #5]  
13

14 **(82)** The certificate holder shall grade and reseed laydown areas to wheat or native grasses as  
15 necessary to restore those areas to their pre-construction condition (App B-10). [Amendment #5]  
16

17 **(83)** For any materials disposed of as fill on site, the certificate holder shall conduct such disposal with  
18 the approval of the landowner and in accordance with OAR 340-093-0080 and other applicable  
19 regulations. (App G-3, V-3) [Amendment #5]  
20

21 **(84)** For the purposes of this site certificate, wind turbine tower locations are analogous to location of  
22 permanent rights-of-way for pipelines or transmission lines as described in OAR 345-027-0023(5).  
23 The Council approves the corridor described in the final order for construction of turbine strings.  
24 As required under OAR 345-027-0020(2) and Condition 13, the certificate holder shall submit to  
25 the Department of Energy a legal description of the location where the certificate holder has built  
26 turbine towers and other parts of the facility. Within 90 days after beginning operation of any  
27 turbines that are added to the facility by amendment of the site certificate, the certificate holder  
28 shall submit to the Department a legal description of the location of any additional turbine towers  
29 and related or supporting facilities allowed by the amendment. The site of the facility is the area  
30 identified by the legal descriptions required by this condition. Within 90 days after beginning  
31 facility operation, the certificate holder shall provide to the Department and the Umatilla County  
32 Planning Department the actual latitude and longitude location or Stateplane NAD 83(91)  
33 coordinates of each turbine tower, connecting lines and transmission lines and a summary of as  
34 built changes in the facility from the original plan. (OAR 345-027-0020(2) and (3)) [Amendment #1,  
35 #4] See Condition (13).  
36

## 37 **5. Conditions That Must Be Met During Operation**

38

39 **(85)** The certificate holder shall prepare and maintain a site health and safety plan that informs  
40 employees and others onsite what to do in case of emergencies and includes the locations of fire  
41 extinguishers and nearby hospitals, important telephone numbers and first aid techniques. (App U-  
42 25)  
43

44 **(86)** The certificate holder shall recycle solid waste generated during operation of the facility as much  
45 as feasible and shall collect non-recyclable waste and transport it to a local landfill. (App V-2)  
46

- 1 **(87)** This condition applies to Stateline 1&2 only. The certificate holder shall provide portable toilets for  
2 use at the satellite O&M building and shall make sure that they are pumped and cleaned regularly  
3 by a licensed pumper who is qualified to pump and clean portable toilet facilities. The certificate  
4 holder must contact the Oregon Department of Environmental Quality if the on-site septic system  
5 is to be used. (App O-2) [Amendment #4]  
6
- 7 **(88)** If the turbine blades need to be washed, the certificate holder shall use no more than 500 gallons  
8 of water per turbine, trucked to the site by a contractor and purchased from a source with a valid  
9 water right. The certificate holder shall use high-pressure cold water only and shall not use  
10 chemicals or additives in the wash water. (App O-2) [Amendment #1]  
11
- 12 **(89)** If any new nesting or denning sites for wildlife species of concern are located, the certificate  
13 holder shall prepare maps indicating off-limit areas. In addition, the certificate holder shall  
14 minimize road construction and vehicle use where possible. (P-42)  
15
- 16 **(90)** The certificate holder shall mitigate possible impacts to wildlife by measures including but not  
17 limited to the following (App P-43, Q-10):  
18 (a) Instructing all personnel on sensitive wildlife of the area and on required precautions to  
19 avoid injuring or destroying wildlife.  
20 (b) Instructing all personnel to watch out for wildlife while driving through the project area, to  
21 maintain reasonable driving speeds so as not to harass or accidentally strike wildlife and to  
22 be particularly cautious and drive at slower speeds in a period from one hour before sunset  
23 to one hour after sunrise when some wildlife species are the most active.  
24 (c) Requiring all personnel to report any injured or dead wildlife detected at the facility site.  
25
- 26 **(91)** The certificate holder shall mitigate possible impacts to fish and wildlife habitat by measures  
27 including but not limited to the following (App P-43, Q-10):  
28 (a) Using best management practices to prevent erosion of soil into stream channels.  
29 (b) Controlling invasive, weedy plant species during maintenance of project facilities.  
30 (c) Monitoring re-vegetated areas to ensure successful establishment of new vegetation.  
31
- 32 **(92)** The certificate holder shall mitigate potential adverse impacts to soils from erosion by measures  
33 including but not limited to the following (App I-3 through 5):  
34 (a) Using drainage collection procedures to capture surface water that collects on, and drains  
35 from, gravel surfaces or structures as a result of precipitation and routing the water to  
36 drainage ditches lined with quarry stone or other similar materials.  
37 (b) Using sand-bags, straw bales and silt fences as needed to reduce erosion from precipitation  
38 during repair of underground cables or other soil-disturbing repairs.  
39 (c) If areas of erosion are observed during operation, implementing mitigation and reclamation  
40 measures.  
41
- 42 **(93)** The certificate holder shall conduct wildlife monitoring as described in the *Wildlife Monitoring and*  
43 *Mitigation Plan (WMMP)*, included in the Final Order on Amendment #6 as Attachment F and as  
44 revised from time to time. Subject to approval by the Department of Energy as to professional  
45 qualifications, the certificate holder shall hire qualified wildlife consultants to carry out the  
46 monitoring.

1 The certificate holder shall conduct 1-year of post-construction fatality monitoring in accordance  
2 with the protocol included in the WMMP following completion of construction activities for the  
3 Vansycle II facility modifications, as approved in the Final Order on Amendment #6. Additional  
4 fatality monitoring studies and necessity of additional mitigation shall be determined based on the  
5 results of the 1-year post construction fatality monitoring study.  
6 (OAR 345-022-0060) [Amendment #1, #4, #5, #6]  
7

8 **(94)** If analysis of monitoring data indicates impacts to wildlife or wildlife habitat that the certificate  
9 holder has not adequately addressed by mitigation and if these impacts result in a loss of habitat  
10 quantity or quality, the certificate holder shall mitigate for the loss of habitat quality by measures  
11 approved by the Oregon Department of Energy. (OAR 345-022-0060) [Amendment #4, #5]  
12

13 **(95)** The certificate holder shall inspect turbine blades on a regular basis for signs of wear or potential  
14 failure. (App BB-1) [Amendment #5]  
15

16 **(96)** The certificate holder shall make sure that all on-site employees receive annual fire prevention and  
17 response training by a professional fire-safety training firm. The certificate holder shall prohibit  
18 employees from smoking outside of company vehicles during dry summer months and shall  
19 require employees to keep vehicles on roads and off dry grassland during the dry months unless  
20 necessary for work purposes. The certificate holder shall not engage in welding, cutting, grinding  
21 or other flame or spark-producing operations near the turbines. The certificate holder shall equip  
22 each company vehicle on site with a fire extinguisher, water spray can, shovel, Emergency  
23 Response procedures book and a two-way radio for immediate communications with the O&M  
24 facility. The certificate holder shall have staff in the local area on call at all times to respond in case  
25 of fire or other emergency. The certificate holder shall supply all local fire departments with maps  
26 of and gate keys to the facility. (App B-12) [Amendment #5]  
27

## 28 **VI. CONDITIONS ADDED BY AMENDMENT #1** [Amendment #1, #4] 29

30 The conditions listed in this section include conditions based on representations in the request  
31 for Amendment #1 and supporting record. The Council deems these representations to be binding  
32 commitments made by the applicant. These conditions are required under OAR 345-027-0020(10).  
33 [Amendment #4]  
34

35 Except as specifically noted, these conditions apply to all phases of the Stateline Wind Project. In  
36 applying the conditions in this section, "certificate holder" means ~~FPL Vansycle~~FPL Energy Vansycle, LLC  
37 with regard to Stateline 1&2 and ~~FPL Stateline Vansycle II Wind, LLC~~ with regard to Vansycle II.  
38 [Amendment #4, #7, and #8]  
39

### 40 **1. General Conditions** 41

42 **(97)** This condition applies to Stateline 2 only. The certificate holder shall begin construction of  
43 Stateline 2 within six months after the effective date of the First Amended Site Certificate. The  
44 certificate holder shall complete construction of Stateline 2 before March 1, 2005. Under OAR 345-  
45 027-0070, an amended site certificate is effective upon execution by the Council Chair and the  
46 applicant. Completion of construction occurs upon the date commercial operation of Stateline 2  
47 begins. The Council may grant an extension of the construction beginning or completion deadlines

1 in accordance with OAR 345-027-0030 or any successor rule in effect at the time the request for  
2 extension is submitted. [Amendments #2, #4]

3  
4 **(98)** [Condition removed by Amendment #4]

5  
6 **(99)** Before any transfer of ownership of the facility or ownership of the site certificate holder, the  
7 certificate holder shall inform the Department of the proposed new owners. The requirements of  
8 OAR 345-027-0100 apply to any transfer of ownership that requires a transfer of the site  
9 certificate. (OAR 345-027-0020(15) [Amendment #4]

10  
11 **(100)** If the Council finds that the certificate holder has permanently ceased construction or operation  
12 of the facility without retiring the facility according to a final retirement plan approved by the  
13 Council, as described in OAR 345-027-0110, the Council shall notify the certificate holder and  
14 request that the certificate holder submit a proposed final retirement plan to the Department of  
15 Energy within a reasonable time not to exceed 90 days. If the certificate holder does not submit a  
16 proposed final retirement plan by the specified date, the Council may direct the Department to  
17 prepare a proposed a final retirement plan for the Council's approval. Upon the Council's approval  
18 of the final retirement plan, the Council may draw on the bond or letter of credit described in OAR  
19 345-027-0020(8) to restore the site to a useful, non-hazardous condition according to the final  
20 retirement plan, in addition to any penalties the Council may impose under OAR Chapter 345,  
21 Division 29. If the amount of the bond or letter of credit is insufficient to pay the actual cost of  
22 retirement, the certificate holder shall pay any additional cost necessary to restore the site to a  
23 useful, non-hazardous condition. After completion of site restoration, the Council shall issue an  
24 order to terminate the site certificate if the Council finds that the facility has been retired  
25 according to the approved final retirement plan. (OAR 345-027-0020(16) [Amendment #4]

26  
27 **2. Conditions That Must Be Met Before Construction Begins**  
28

29 **(101)** This condition applies to Stateline 2 only. The certificate holder shall not engage in construction  
30 activities for Stateline 2 facilities, including the movement of heavy trucks and equipment, within a  
31 ¼-mile buffer around an identified ferruginous hawk nest tree during the sensitive period of the  
32 nesting season (March 20 to August 15), except as provided in this condition. The certificate holder  
33 shall use a protocol approved by the Oregon Department of Fish and Wildlife (ODFW) to determine  
34 whether the nest is occupied. The certificate holder may begin construction activities before  
35 August 15 if the nest is not occupied. If the nest is occupied, the certificate holder shall use a  
36 protocol approved by ODFW to determine when the young are fledged (independent of the core  
37 nest site). With the approval of ODFW, the certificate holder may begin construction before  
38 August 15 if the young are fledged. During the specified nesting season, the certificate holder may  
39 use the road into the site with vehicles that are one ton in capacity or smaller; conduct turbine,  
40 turbine tower, blade or met tower construction activities that are not visible above the horizon  
41 from the vantage point of the ferruginous hawk nest; and use the road one time to transport  
42 heavy equipment off the site. [Amendment #2, #4]

43  
44 **(102)** [Condition removed by Amendment #4]

45  
46 **3. Conditions That Apply During Construction**  
47

- 1 **(103)** To minimize the risk of fire, the certificate holder shall:  
2 (a) Construct turbines, towers and pads of fire retardant materials.  
3 (b) Bury electrical cables.  
4 (c) Use enclosed, locked pad-mounted transformer structures.  
5 (d) Include built-in fire prevention measures in turbines.  
6 (e) Not store combustible materials at the Stateline site.  
7

8 **(104)** This condition applies to Stateline 2 only. To mitigate for the permanent elimination of  
9 approximately 1 acre of Category 3 and 4 habitat, the certificate holder shall enlarge the habitat  
10 enhancement area described in Condition (67) by 1 acre. [Amendment #4]  
11

#### 12 **4. Conditions That Must Be Met During Operation**

13  
14 **(105)** This condition applies to Stateline 2 only. The certificate holder shall enter into an agreement  
15 with the landowner of a property identified as 84301 Stockman Road, Helix, Oregon, requiring that  
16 the structure remain uninhabited during construction. The certificate holder shall continue the no-  
17 occupation agreement until retirement of the facility unless the certificate holder demonstrates to  
18 the satisfaction of the Department that the facility complies with the applicable noise control  
19 regulations under OAR 340-035-0035. The certificate holder may demonstrate compliance with  
20 the regulations as to the increase in ambient statistical noise levels by entering into a legally  
21 effective easement or real covenant with the owner of the property identified as 84301 Stockman  
22 Road, Helix, Oregon, pursuant to which the owner authorizes the certificate holder's operation of  
23 the facility to increase ambient statistical noise levels L<sub>10</sub> and L<sub>50</sub> by more than 10 dBA at the  
24 appropriate measurement point. A legally effective easement or real covenant shall: include a legal  
25 description of the burdened property (the noise sensitive property); be recorded in the real  
26 property records of the county; expressly benefit the certificate holder; expressly run with the land  
27 and bind all future owners, lessees or holders of any interest in the burdened property; and not be  
28 subject to revocation without the certificate holder's written approval. If such easement or real  
29 covenant is not in effect, then the certificate holder shall demonstrate to the satisfaction of the  
30 Department, based on modeling or measurements performed in compliance with OAR 340-035-  
31 0035, that an easement or real covenant is not necessary to comply with those regulations.  
32 [Amendment #3, #4].  
33

#### 34 **VII. CONDITIONS ADDED BY AMENDMENT #2** [Amendment #2, #4]

35  
36 The conditions listed in this section include conditions based on representations in the request  
37 for Amendment #2 and supporting record. The Council deems these representations to be binding  
38 commitments made by the applicant. These conditions are required under OAR 345-027-0020(10).  
39 These conditions apply to Vansycle II only. In applying the conditions in this section, "certificate holder"  
40 means [FPL Stateline Vansycle II Wind, LLC](#). [Amendment #4, #7, and #8]  
41

#### 42 **1. General Conditions**

43  
44 **(106)** The certificate holder shall begin construction of Vansycle II by October 1, 2009. The certificate  
45 holder shall complete construction of Vansycle II before December 31, 2010. Under OAR 345-027-  
46 0070, an amended site certificate is effective upon execution by the Council Chair and the  
47 applicant. Completion of construction occurs upon the date commercial operation of Vansycle II

1 begins. The Council may grant an extension of the construction beginning or completion deadlines  
2 in accordance with OAR 345-027-0030 or any successor rule in effect at the time the request for  
3 extension is submitted. [Amendment #3, #4, #7]  
4

5 **(107)** [Condition removed by Amendment #4]  
6

7 **(108)** The certificate holder shall take reasonable steps to reduce or manage human exposure to  
8 electromagnetic fields, including but not limited to:

- 9 (a) Designing and operating the transmission lines so that maximum current (amps per  
10 conductor) would not exceed the following levels: For 34.5-kV underground lines, 560 amps  
11 and for 230-kV transmission lines, 753 amps. [Amendment #4]  
12 (b) Providing to landowners a map of underground and overhead transmission lines on their  
13 property and advising landowners of possible health risks.  
14

## 15 **2. Conditions That Must Be Met Before Construction Begins** 16

17 **(109)** Before beginning construction of facility modifications approved in the Final Order on  
18 Amendment #6 and #7, the certificate holder shall submit to the State of Oregon through the  
19 Council a bond or letter of credit in the amount described herein naming the State of Oregon,  
20 acting by and through the Council, as beneficiary or payee. The initial bond or letter of credit  
21 amount for Vansycle II, with modifications approved in the Final Order on Amendment #6 and #7,  
22 is \$6,906,000 million (in 4th Quarter 2021 dollars) to be adjusted to the date of issuance and  
23 submitted within 60 days of execution of the Sixth Amended Site Certificate, and adjusted on an  
24 annual basis thereafter, as described in sub-paragraph (a) of this Condition.

- 25 (a) The certificate holder may adjust the amount of the bond or letter of credit for Vansycle II,  
26 with modifications approved in the Final Order on Amendment #6 and #7, by applying the  
27 unit costs and general costs illustrated in Table 5 and Table 6 in the Final Order on  
28 Amendment #6 and calculating the financial assurance amount as described in that order,  
29 adjusted to the date of issuance as described in (b), subject to approval by the Department.  
30 (b) Subject to approval by the Department, the certificate holder shall adjust the amount of the  
31 bond or letter of credit on an annual basis using the following calculation:  
32 (i) Adjust the Subtotal component of the initial bond or letter of credit amount (expressed in  
33 4<sup>th</sup> Quarter 2021 dollars) to present value, using the U.S. Gross Domestic Product  
34 Implicit Price Deflator, Chain-Weight, as published in the Oregon Department of  
35 Administrative Services' "Oregon Economic and Revenue Forecast," or by any successor  
36 agency (the "Index") and using the index value for 4<sup>th</sup> Quarter 2021 dollars and the  
37 quarterly index value for the date of issuance of the new bond or letter of credit. If at  
38 any time the Index is no longer published, the Council shall select a comparable  
39 calculation to adjust 4<sup>th</sup> Quarter 2021 dollars to present value.  
40 (ii) Add 1 percent of the adjusted Subtotal (i) for the adjusted performance bond amount to  
41 determine the adjusted Gross Cost.  
42 (iii) Add 10 percent of the adjusted Gross Cost (ii) for the adjusted administration and  
43 project management costs, and 10 percent of the adjusted Gross Cost (ii) for the  
44 adjusted future developments contingency, and 20 percent of the adjusted Gross Cost  
45 (ii) for the adjusted future developments contingency for the battery storage system, if  
46 constructed.



- 1 (iv) Add the adjusted Gross Cost (ii) to the sum of the percentages (iii) to determine the  
2 adjusted Full Cost, and round the resulting total to the nearest \$1,000 to determine the  
3 adjusted financial assurance amount.
- 4 (c) The certificate holder shall use a form of bond or letter of credit approved by the Council.  
5 (d) The certificate holder shall use an issuer of the bond or letter of credit approved by the  
6 Council.
- 7 (e) The certificate holder shall describe the status of the bond or letter of credit in the annual  
8 report submitted to the Council, as required by Condition 8.
- 9 (f) The bond or letter of credit shall not be subject to revocation or reduction before retirement  
10 of Vansycle II.  
11 [Amendment #4, #6, #7]

12  
13 **(110)** At least 30 days before beginning preparation of detailed design and specifications for the  
14 electrical transmission lines, the certificate holder shall consult with the Oregon Public Utility  
15 Commission staff to ensure that its designs and specifications are consistent with applicable codes  
16 and standards.

17  
18 **(111)** [Condition removed by Amendment #4]

19  
20 **3. Conditions That Apply During Construction**

21  
22 **(112)** Before beginning construction and after considering all micro-siting factors, the certificate holder  
23 shall provide to the Department and to the Oregon Department of Fish and Wildlife (ODFW)  
24 detailed maps of the facility site, showing the final design locations where the certificate holder  
25 proposes to build facility components and the habitat categories of all areas that would be  
26 affected during construction. In addition, the certificate holder shall provide a table showing the  
27 acres of temporary and permanent habitat impact by habitat category and subtype, similar to  
28 Table 8 in the Final Order on Amendment #4. In classifying the affected habitat into habitat  
29 categories, the certificate holder shall consult with the ODFW. The certificate holder shall not  
30 begin ground disturbance in an affected area until the habitat assessment has been approved by  
31 the Department. The Department may employ a qualified contractor to confirm the habitat  
32 assessment by on-site inspection. Based on the approved habitat assessment, the certificate  
33 holder shall calculate the mitigation area requirement and shall carry out enhancement activities  
34 as described in the *Vansycle II Habitat Mitigation Plan* included in the Final Order on Amendment  
35 #4 as Attachment C and as revised from time to time. The certificate holder shall acquire the legal  
36 right to create and maintain the enhancement area for the life of the facility by means of an  
37 outright purchase, conservation easement or similar conveyance and shall provide a copy of the  
38 documentation to the Department of Energy. The certificate holder shall determine the location of  
39 this habitat enhancement area in consultation with ODFW and landowners. [Amendment #4, #7]

40  
41 **(113)** To protect the public from electrical hazards including electric and magnetic field exposure, the  
42 certificate holder shall:

- 43 (a) Enclose the substation with a seven-foot-tall chain link fence with barbed wire at the top  
44 pointing out at a 45-degree angle.
- 45 (b) Attach the 230-kV aboveground transmission lines to H-frame structures that consist of two  
46 wooden poles connected by cross-members with a typical overall height of 61 feet and a

1 minimum design ground clearance of 25 feet to the lowest conductor as described in the  
2 Request for Amendment #4.

3 (c) Design and construct the transmission lines so that:

4 (i) Alternating current electric fields during operation do not exceed 9 kV per meter at one  
5 meter above the ground surface in areas accessible to the public, and

6 (ii) Induced voltages during operation are as low as reasonably achievable.

7 [Amendment #4]  
8

9 **(114)** To deter raptors from perching on transmission support structures near the wind turbines, the  
10 certificate holder shall install anti-perching devices on all proposed support structures within one-  
11 half mile of any turbine, unless the top of the support structure is below the base of the turbine  
12 tower due to topography. Wherever feasible, the certificate holder shall use “spike-type” devices  
13 instead of “triangle-type” devices. [Amendment #4]  
14

15 **(115)** To protect raptors, the certificate holder shall design structures for 230-kV transmission lines to  
16 conform to the guidelines of the Avian Power Line Interaction Committee so that electrical  
17 conductors are spaced far enough apart to reduce the risk of bird electrocution. [Amendment #4]  
18

19 **(116)** [Condition removed by Amendment #4]  
20

21 **(117)** The certificate holder shall not engage in construction activities for Vansycle II facilities, including  
22 the movement of heavy trucks and equipment, within a ¼-mile buffer around known ferruginous  
23 hawk nests during the sensitive period of the nesting season from (March 20 to August 15), except  
24 as provided in this condition. The certificate holder shall use a protocol approved by the Oregon  
25 Department of Fish and Wildlife (ODFW) to determine whether the nest is occupied. The  
26 certificate holder may begin construction activities before August 15, if the nest is not occupied. If  
27 the nest is occupied, the certificate holder shall use a protocol approved by ODFW to determine  
28 when the young are fledged (independent of the core nest site). With the approval of ODFW, the  
29 certificate holder may begin construction before August 15, if the young are fledged. [Amendment  
30 #7]  
31

32 **(118)** The certificate holder shall construct stream crossings substantially as described in the Final  
33 Order on Amendment #4. In particular, the certificate holder shall not remove material from  
34 waters of the state or add new fill material to waters of the state such that the total volume of  
35 removal and fill exceeds 50 cubic yards for the project as a whole. [Amendment #4]  
36

#### 37 **4. Conditions That Must Be Met During Operation** 38

39 **(119)** The certificate holder shall perform frequent maintenance to keep the substation transformer in  
40 good repair and in reliable operating condition.  
41

42 **(120)** The certificate holder shall verify that the actual sound power level output of the wind turbines  
43 constructed for Vansycle II meets the manufacturer’s warranty. This verification may consist of  
44 field measurement or other means of verification satisfactory to the Department of Energy. The  
45 certificate holder shall include the verification in the first annual report following construction of  
46 any Vansycle II turbines. [Amendment #4, #7]  
47

1 **VIII. CONDITIONS ADDED BY AMENDMENT #3**

2  
3 **(121)** [Condition removed by Amendment #4]

4  
5 **(122)** [Condition removed by Amendment #4]

6  
7 **IX. CONDITIONS ADDED BY AMENDMENT #4**

8  
9 Except as specifically noted, the conditions in this section apply to Vansycle II only. In applying  
10 the conditions in this section, “certificate holder” means ~~FPL Stateline~~Vansycle II Wind, LLC. In applying  
11 the conditions in this section, “certificate holder” means ~~FPL Vansycle~~FPL Energy Vansycle, LLC with  
12 regard to Stateline 1&2 and ~~FPL Stateline~~Vansycle II Wind, LLC with regard to Vansycle II. [Amendment  
13 #4, #7 and #8]

14  
15 **(123)** The certificate holder shall design and construct Vansycle II in compliance with the County design  
16 requirements as described in Umatilla County Development Code Sections 152.010, 152.011,  
17 152.015, 152.018, 152.063(E) and 152.616(HHH)(5)(F) in effect as of October 24, 2008.  
18 [Amendment #4, #7]

19  
20 **(124)** The certificate holder shall ensure that construction contractors use a transportation route  
21 reviewed and approved by the Umatilla County Public Works Director for all oversized and heavy  
22 load transport vehicles. [Amendment #4]

23  
24 **(125)** The certificate holder shall record a Covenant Not to Sue with regard to generally accepted  
25 farming practices as required by Umatilla County Development Code Section 152.616(HHH)(2)(E).  
26 [Amendment #4]

27  
28 **(126)** The certificate holder shall construct all Vansycle II components in compliance with the following  
29 setback requirements:  
30 (a) All facility components must be at least 3,520 feet from the property line of properties zoned  
31 residential use or designated in the Umatilla County Comprehensive Plan as residential.  
32 (b) Where (a) does not apply, the certificate holder shall maintain a minimum distance of 110-  
33 percent of maximum blade tip height, measured from the centerline of the turbine tower to  
34 the nearest edge of any public road right-of-way. The certificate holder shall assume a  
35 minimum right-of-way width of 60 feet.  
36 (c) Where (a) does not apply, the certificate holder shall maintain a minimum distance of 1,320  
37 feet, measured from the centerline of the turbine tower to the center of the nearest  
38 residence existing at the time of tower construction.  
39 (d) Where (a) does not apply, the certificate holder shall maintain a minimum distance of 110-  
40 percent of maximum blade tip height, measured from the centerline of the turbine tower to  
41 the nearest boundary of the certificate holder’s lease area.  
42 (e) The certificate holder shall not locate equipment associated with the temporary batch plant  
43 within 50 feet of a public road, county road or utility right of way.  
44 [Amendment #4, #7]

- 1 **(127)** The certificate holder shall deliver a copy of the annual report required under Condition 8 to the  
2 Umatilla County Planning Commission on an annual basis unless specifically discontinued by the  
3 County. [Amendment #4]  
4
- 5 **(128)** During construction, the certificate holder shall position a 3,000-gallon water truck on-site while  
6 personnel are present and actively working. [Amendment #4]  
7
- 8 **(129)** During operation, the certificate holder shall discharge sanitary wastewater generated at the  
9 Vansycle II O&M building to a licensed on-site septic system in compliance with county permit  
10 requirements. The certificate holder shall locate the septic system more than 100 feet from any  
11 streams, lakes or wetlands. The certificate holder shall design the septic system for a discharge  
12 capacity of less than 2,500 gallons per day. [Amendment #4, #7]  
13
- 14 **(130)** During operation, the certificate holder shall obtain water for on-site uses from a wells located at  
15 the Vansycle II O&M building, subject to compliance with applicable permit requirements. The  
16 certificate holder shall not use more than 5,000 gallons of water per day from the on-site well.  
17 [Amendment #4]  
18
- 19 **(131)** The certificate holder shall avoid permanent and temporary disturbance to all Category 1 and  
20 Category 2 habitat within the Vansycle II site boundary. [Amendment #4, #7]  
21
- 22 **(132)** Before beginning construction, the certificate holder shall conduct a site-specific geotechnical  
23 investigation and shall report its findings to the Oregon Department of Geology & Mineral  
24 Industries (DOGAMI) and the Department. The certificate holder shall conduct the geotechnical  
25 investigation after consultation with DOGAMI and in general accordance with DOGAMI open file  
26 report 00-04 "Guidelines for Engineering Geologic Reports and Site-Specific Seismic Hazard  
27 Reports." [Amendment #4, #7]  
28
- 29 **(133)** Before beginning construction, the certificate holder shall provide to the Department:  
30 (a) Information that identifies the final design locations of all Vansycle II wind turbines to be  
31 built.  
32 (b) The maximum sound power level for the Vansycle II substation transformers and the  
33 maximum sound power level and octave band data for the turbines selected for the  
34 Vansycle II based on manufacturers' warranties or confirmed by other means acceptable to  
35 the Department.  
36 (c) The results of noise analysis of the facility, including the Vansycle II components to be built  
37 according to the final design, performed in a manner consistent with the requirements of  
38 OAR 340-035-0035(1)(b)(B)(iii)(IV) and (VI) demonstrating to the satisfaction of the  
39 Department that the total noise generated by the facility (including the noise from turbines  
40 and substation transformers) would meet the ambient degradation test and maximum  
41 allowable test at the appropriate measurement point for all potentially-affected noise  
42 sensitive properties.  
43 (d) For each noise-sensitive property where the certificate holder relies on a noise waiver to  
44 demonstrate compliance in accordance with OAR 340-035-0035 (1)(b)(B)(iii)(III), a copy of a  
45 legally effective easement or real covenant pursuant to which the owner of the property  
46 authorizes the certificate holder's operation of the facility to increase ambient statistical  
47 noise levels  $L_{10}$  and  $L_{50}$  by more than 10 dBA at the appropriate measurement point. The

1           legally-effective easement or real covenant must: include a legal description of the  
2           burdened property (the noise sensitive property); be recorded in the real property records  
3           of the county; expressly benefit the certificate holder; expressly run with the land and bind  
4           all future owners, lessees or holders of any interest in the burdened property; and not be  
5           subject to revocation without the certificate holder’s written approval.

6           [Amendment #4]

7  
8           **(134)** During operation, the certificate holder shall maintain a complaint response system to address  
9           noise complaints. The certificate holder shall promptly notify the Department of any complaints  
10          received regarding facility noise and of any actions taken by the certificate holder to address those  
11          complaints. In response to a complaint from the owner of a noise sensitive property regarding  
12          noise levels during operation of the facility, the Council may require the certificate holder to  
13          monitor and record the statistical noise levels to verify that the certificate holder is operating the  
14          facility in compliance with the noise control regulations. [Amendment #4, #5]

15  
16          **(135)** During construction, the certificate holder shall not install any transmission line support  
17          structures within 800 feet of any active Swainson’s hawk nest identified in 2008 or later.  
18          [Amendment #4]

19  
20          **(136)** This condition applies to all phases of the Stateline Wind Project. When any third-party lien or  
21          security interest in the facility’s wind turbines or turbine towers is created, the certificate holder  
22          shall notify such third party in writing that the wind turbines and towers are components an  
23          energy facility that is subject to the terms and conditions of a Site Certificate and subject to the  
24          rules of the Oregon Energy Facility Siting Council. The certificate holder shall provide to the  
25          Department a copy of each written notification required under this condition and the name and  
26          contact information for each third party so notified. [Amendment #4]

27  
28          **X. CONDITIONS APPLICABLE TO CHANGES APPROVED IN AMENDMENT #5, #6 AND #7 (Vansycle II)**

29  
30                 In accordance with ORS 469.300(6), preconstruction and construction conditions identified as  
31                 applicable to the facility modifications approved in the Final Order on Amendment #6 and #7 may be  
32                 satisfied, based on final design and configuration, of any given phase or facility component.

33  
34                 The conditions listed in this section are specific to the facility modifications approved in the Final  
35                 Order on Amendment #6[Amendment #6] and Final Order on Amendment #7 [Amendment #7] solely  
36                 referred to as Vansycle II.

37  
38          **(137)** The certificate holder shall construct the Vansycle II facility modifications, as approved in the  
39          Final Orders on Amendment #6 and #7 and substantially as described in the amended site  
40          certificate. Before beginning construction, the certificate holder shall provide to the Department  
41          equipment specifications and a description of the wind turbine dimensions to demonstrate  
42          compliance with this condition.  
43          [Amendment #5, #6, #7]

44  
45          **(138)** The certificate holder shall begin construction of the Vansycle II facility modifications, as  
46          approved in the Final Order on Amendment #6 and #7, within three years after the effective  
47          date of the amended site certificate [January 28, 2022]. The certificate holder shall notify the

1 Department when construction of the of the facility modifications, as approved in Request for  
2 Amendment 6, commences. Under OAR 345-015-0085(8), the amended site certificate is  
3 effective upon execution by the Council Chair and the certificate holder.

4 [Mandatory Condition OAR 345-025-0006(4); Amendment #5, #6, #7]  
5

- 6 **(139)** The certificate holder shall complete construction of the Vansycle II facility modifications, as  
7 approved in the Final Order on Amendment #6 and #7, within three years following the date of  
8 construction commencement. The certificate holder shall promptly notify the Department of the  
9 date of completion of construction of the Vansycle II facility modifications, as approved in the  
10 Final Order on Amendment #6 and #7.

11 [Mandatory Condition OAR 345-025-0006(4); Amendment #5, #6, #7]  
12

- 13 **(140)** For the facility modifications approved in the Final Order on Amendment #6 and #7, the  
14 certificate holder shall:

- 15 (a) Prior to construction, provide the Department with the turbine foundation suitability  
16 analysis, applicable to the 43 existing wind turbines, if repowered. An annual operational  
17 inspection schedule and the results of the foundation suitability analysis, including any  
18 necessary mitigation and/or remediation measures, shall be incorporated into an inspection  
19 and maintenance plan, to then be implemented as part of facility operations. The plan shall  
20 be provided to the Department for review and approval, in consultation with DOGAMI or a  
21 third-party consultant.
- 22 (b) During operation of repowered wind turbines, adhere to the remediation, inspection and  
23 monitoring requirements established in the approved plan per (a). Monitoring  
24 documentation shall be provided to the Department in the annual report per OAR 345-026-  
25 0080(1).
- 26 (c) If any mitigation or remediation is required per(a) of this condition, prior to the repower or  
27 during repowered operations, submit in amendment determination request to the  
28 Department per OAR 345-027-0357(2).

29 [Amendment #5, #6, #7]  
30

- 31 **(141)** Prior to construction of facility modifications approved in the Final Order on Amendment #6 and  
32 #7, the certificate holder shall:

- 33 (a) Provide the Department maps and tabular data demonstrating that the final design of new,  
34 replacement and repowered wind turbines comply with the setback requirements to county  
35 road rights of way pursuant to UCDC Section 152.616(HHH)(6)(a)(4), or that the certificate  
36 holder has relocated or adjusted the county road right of way. Wind turbines not meeting the  
37 setback requirements from county road rights-of-way are precluded from increasing the  
38 maximum blade tip height from 440 to 499 feet through repower activities.
- 39 (b) If the certificate has relocated or adjusted a county road right of way, the certificate holder  
40 shall provide to the Department written verification from Umatilla County that confirms the  
41 county road rights of way have been adjusted.

42 [Amendment #5, #6, #7]  
43

- 44 **(142)** During construction of Vansycle II facility modifications, as approved in the Final Order on  
45 Amendment #6 and #7, the certificate holder shall:

- 1 (a) Ensure all construction personnel receive environmental awareness training from a qualified
- 2 professional on cultural resources and the inadvertent discovery protocols of the Inadvertent
- 3 Discovery Plan.
- 4 (b) Implement and adhere to Inadvertent Discovery Plan measures previously approved in
- 5 Condition 75 in the event previously unidentified cultural resources are encountered, as
- 6 referenced in (i) – (iv) of this condition.
- 7 (i) The Inadvertent Discovery Plan shall establish that earth-disturbing activities be halted in
- 8 the immediate vicinity of the find, in accordance with Oregon state law (ORS 97.745 and
- 9 358.920).
- 10 (ii) Within 24-hours of the find, the certificate holder shall notify the Department, SHPO and
- 11 the Confederated Tribes of the Umatilla Indian Reservation (CTUIR).
- 12 (iii) The certificate holder shall have a qualified archaeologist evaluate the discovery and
- 13 recommend subsequent courses of action in consultation with the CTUIR and the SHPO.
- 14 If human remains are discovered, the certificate holder shall halt all construction
- 15 activities in the immediate area and shall notify the Department, SHPO, CTUIR, the
- 16 County Medical Examiner and the State Police.
- 17 [Amendment #5, #6, #7]

18  
 19 **(143)** During construction of the Vansycle II facility modifications, as approved in the Final Order on  
 20 Amendment #6 and #7, the certificate holder shall:

- 21 (a) Provide notice to adjacent landowners when repowering takes place to help minimize
- 22 access disruptions;
- 23 (b) Provide proper road signs and warnings, including “Oversized Load,” “Truck Access,” or
- 24 “Road Crossings;”
- 25 (c) Implement traffic diversion equipment, such as advance signs and pilot cars whenever
- 26 possible when slow or oversized loads are being hauled;
- 27 (d) Encourage carpooling for the workforce to reduce traffic volume;
- 28 (e) Employ flag persons as necessary to direct traffic when large equipment is exiting or
- 29 entering public roads to minimize risk of accidents; and
- 30 (f) Maintain at least one travel lane so that roadways will not be closed to traffic because of
- 31 vehicles entering or exiting public roads.

32 [Amendment #5, #6, #7]

33  
 34 **(144)** For facility modifications approved in the Final Order on Amendment #6 and #7, the certificate  
 35 holder shall:

- 36 (a) Prior to construction, provide evidence/documentation to the Department of consideration
- 37 and selection of a recycling facility capable and licensed to receive and process wind turbine
- 38 parts. The evidence/documentation shall include the total quantity (in tons) of
- 39 decommissioned wind turbine parts and the amount to be recycled based on contractual
- 40 agreement with a third-party or recycling facility.
- 41 (b) During construction, the certificate holder shall ensure its third-party contractors reuse or
- 42 recycle wind turbine blades, hubs and other removed wind turbine components to the
- 43 extent practicable. The certificate holder shall demonstrate that the recycling or disposal
- 44 facility selected to receive turbine parts is qualified and approved by an applicable
- 45 regulatory agency. The certificate holder shall report in its semi-annual report to the
- 46 Department the quantities of removed wind turbine components recycled, reused, sold for
- 47 scrap, and disposed of in a landfill. [Amendment #5, #6, #7]

1 **(145)** Prior to construction of facility modifications approved in the Final Order on Amendment #6 and  
2 #7, the certificate holder shall submit a Notice of Proposed Construction or Alteration to the  
3 Federal Aviation Administration (FAA) and the Oregon Department of Aviation identifying the  
4 change in maximum blade tip height of the wind turbines to be repowered. Determination of No  
5 Hazards or other comments from FAA or Oregon Department of Aviation shall be provided to the  
6 Department.

7 [Amendment #5, #6, #7]  
8

9 **(146)** For the Vansycle II facility modifications, as approved in Final Order on Amendment #6 and #7,  
10 the certificate holder shall:

11 (a) During design, select temporary staging areas based on a location with minimal noise impacts  
12 and proximity to noise sensitive receptors.

13 (b) Prior to construction, provide notice to landowners within 1-mile of the site boundary to  
14 inform of the construction start date, duration and description of activities and noise levels.  
15 The notice shall include the name and phone number of the certificate holder's  
16 representative which can be contacted to record construction-related noise complaints.

17 [Amendment #5, #6, #7]  
18

19 **(147)** Prior to construction of Vansycle II facility modifications, as approved in the Final Order on  
20 Amendment #6 and #7, the certificate holder shall provide to the Department:

21 (a) Information that identifies the as-built locations of all Vansycle II wind turbines.

22 (b) The maximum sound power level for the existing Vansycle II substation transformers and the  
23 maximum sound power level and octave band data for the repowered Vansycle II wind based  
24 on manufacturers' warranties or confirmed by other means acceptable to the Department.

25 (c) The results of noise analysis for the Vansycle II facility modifications, as approved in the Final  
26 Order on Amendment #6, performed in a manner consistent with the requirements of OAR  
27 340-035-0035(1)(b)(B)(iii)(IV) and (VI) demonstrating to the satisfaction of the Department  
28 that the total noise generated (including the noise from repowered wind turbines and  
29 existing substation transformers) would meet the ambient degradation test and maximum  
30 allowable test at the appropriate measurement point for all potentially-affected noise  
31 sensitive properties.

32 (d) For each noise-sensitive property where the certificate holder relies on a noise waiver to  
33 demonstrate compliance in accordance with OAR 340-035-0035 (1)(b)(B)(iii)(III), a copy of a  
34 legally effective easement or real covenant pursuant to which the owner of the property  
35 authorizes the certificate holder's operation of the facility to increase ambient statistical  
36 noise levels L<sub>10</sub> and L<sub>50</sub> by more than 10 dBA at the appropriate measurement point. The  
37 legally-effective easement or real covenant must: include a legal description of the burdened  
38 property (the noise sensitive property); be recorded in the real property records of the  
39 county; expressly benefit the certificate holder; expressly run with the land and bind all  
40 future owners, lessees or holders of any interest in the burdened property; and not be  
41 subject to revocation without the certificate holder's written approval.

42 [Amendment #5, #6, #7]  
43

44 **(148)** During construction, operation, and retirement of the facility modifications approved in the Final  
45 Order on Amendment #6, the certificate holder shall contractually require its third-party  
46 contractor used to transport and dispose battery and battery waste to comply with all applicable



1 federal regulations and manufacturer recommendations related to the transport and handling of  
2 battery related waste.

3 [Amendment #6, #7]  
4

5 **(149)** For the Vansycle II facility modifications, as approved in the Final Order on Amendment #6 and  
6 #7, the certificate holder shall:

7 (a) Provide to the Department a list of federal, state and local permits, including any third-party  
8 permits related to facility siting; and a schedule for obtaining identified permits.

9 (b) Once obtained, provide copies of all permits, including third-party permits, required for  
10 facility siting to the Department.

11 [Amendment #6, #7]  
12

13 **(150)** For the Vansycle II facility modifications approved in the Final Order on Amendment #6 and  
14 #7 that would result in ground-disturbance, the certificate holder shall:

15 (a) Prior to construction, provide a schedule to the Department that demonstrates ground-  
16 disturbing activities are scheduled to avoid the rainy season (Spring), to the extent feasible.

17 (b) Prior to construction, ensure its contractors have contractually agreed to routinely check and  
18 maintain tire pressure for all equipment used during construction activities.

19 (c) During construction, ensure contractors are regularly checking and maintaining tire pressure  
20 of construction equipment prior to use.

21 (d) During construction, ensure contractors are minimizing compaction by limiting daily trips,  
22 using established tracks and disturbance areas, and taking measures to limit unnecessary  
23 trips and disturbance.

24 [Amendment #6, #7]  
25

26 **(151)** Prior to construction of the Vansycle II facility modifications approved in the Final Order on  
27 Amendment #6 and #7, the certificate holder shall develop and submit a Soil Reclamation Plan  
28 specific to temporary disturbance areas, used to inform the final assessment of soil erosion and  
29 compaction impact potential, and reclamation measures. The Soil Reclamation Plan shall be  
30 incorporated and implemented as part of the Final Revegetation Plan (Condition 65).

31 (a) The Soil Reclamation Plan shall include updated soil classification maps with descriptions of  
32 soils impacted and may consider information including but not limited to: (1) key soil  
33 properties related to soil productivity such as bulk density, K-factor, the thickness and  
34 organic carbon of the A and B horizons, porosity, permeability, and water-holding capacity of  
35 the soils within disturbance areas; (2) existing vegetation cover type/invasive dominated  
36 areas based on literature review and preconstruction field surveys; (3) historic and current  
37 land use; and (4) seasonal precipitation conditions.

38 (b) Based on the soil productivity information provided in (a), the certificate holder shall develop  
39 quantitative reclamation criteria that will be used to measure successful reclamation of  
40 disturbed soils.

41 (c) The Soil Reclamation Plan must be submitted to the Department for review and approval, in  
42 consultation with Umatilla Soil and Water Conservation District Oregon Department of  
43 Agriculture, Natural Resource Conservation Service or a third-party consultant with expertise  
44 in soils.

45 [Amendment #6, #7]  
46

- 1 **(152)** For facility components approved in the Final Order on Amendment #6 and #7, the certificate  
2 holder shall:
- 3 (a) Provide evidence to the Department of receipt of an amended conditional use permit from  
4 the Umatilla County Planning Department for new wind turbines, changes to access roads  
5 and/or access points, if constructed.
- 6 (b) Obtain a zoning permit, per affected tax lot, for any new or modified structure in accordance  
7 with UCDC 152.025.  
8 [Amendment #6, #7]  
9
- 10 **(153)** The certificate holder shall develop emergency response plans per (a) and (b) in consultation with  
11 local emergency and fire service providers and shall establish whether mutual aid agreements are  
12 necessary to provide adequate services during construction and operation:
- 13 (a) Prior to and during construction of the facility modifications approved in the Final Order on  
14 Amendment #6 and #7, as applicable, the certificate holder shall notify and provide copies of  
15 the final health and safety plans and/or emergency response plans to be implemented during  
16 construction activities to the Umatilla County Planning Department and the Department.
- 17 (b) Prior to and during operation of the facility modifications approved in the Final Order on  
18 Amendment #6 and #7, as applicable, the certificate holder shall notify and provide copies of  
19 the final Emergency Action Plan to be implemented during operations to the Umatilla County  
20 Planning Department and the Department.  
21 [Amendment #6, #7]  
22
- 23 **(154)** Prior to construction of facility modifications approved in the Final Order on Amendment #6 and  
24 #7, the certificate holder shall provide to the Department and Umatilla County Planning  
25 Department final design/layout maps and GIS data demonstrating compliance of any new wind  
26 turbines with the 2-mile rural residential setback, based on the UCDC 152.616(a)(3) definition of  
27 rural residence. The certificate holder shall also provide in tabular format turbine identification  
28 numbers and distance from nearest rural residence for any new turbines, as applicable, based on  
29 final design.  
30 [Amendment #6, #7]  
31
- 32 **(155)** Prior to construction of the facility modifications approved in the Final Order on Amendment #6  
33 and #7, the certificate holder shall provide to the Department evidence of landowner  
34 consultation for properties to be impacted by temporary and permanent disturbance.  
35 Consultation shall demonstrate that the certificate holder sought landowner input on extent and  
36 timing of disturbance and considered, to the maximum extent feasible from a technological and  
37 engineering perspective, methods to minimize unnecessary disturbance from construction and  
38 operation. The certificate holder shall provide a final design map of facility components approved  
39 in the Final Order on Amendment #6 and #7 and shall promptly notify the Department of any  
40 changes in design that would impact any disturbance minimization measures identified after  
41 landowner consultation.  
42 [Amendment #6, #7]  
43
- 44 **(156)** For facility modifications approved in the Final Order on Amendment #6, the certificate holder  
45 shall:
- 46 (a) Prior to construction submit to the Department, a Noxious Weed Control Plan. The certificate  
47 holder shall submit the plan to the Department for review and approval, in consultation with

1 the weed control board of Umatilla County. The Noxious Weed Control Plan shall include, as  
2 pertinent, but not be limited to, identification of county-listed weeds of economic concern,  
3 methods for evaluating weeds within impact area, results of weed assessment, and control  
4 methods specific to weed control and timing, agency consultation protocol, and process for  
5 evaluating success of weed control.

6 (b) During both construction and operation, adhere to the requirements of the Noxious Weed  
7 Control Plan approved per (a).

8 (c) During construction and operation, report on the results of implementation and monitoring  
9 of noxious weed control to the Department in the semi-annual and annual reports required  
10 per OAR 345-026-0080.

11 [Amendment #6, #7]  
12

13 **(157)** During ground-disturbance activities associated with the facility modifications approved in the  
14 Final Order on Amendment #6 and #7, located within 30 meters of site 35UM 000343, the  
15 certificate holder shall conduct monitoring by a qualified cultural resource expert, unless the site  
16 is concurred by SHPO to be not likely NRHP-eligible. If additional archeological resources are  
17 identified during ground disturbing activities within 30 meters of site 35UM 000343, the  
18 certificate holder shall conduct stop-work, reporting and response procedures in accordance with  
19 its Inadvertent Discovery Plan.

20 [Amendment #6, #7]  
21

22 **(158)** Prior to construction of facility modifications approved in the Final Order on Amendment #6 and  
23 #7, the certificate holder shall provide to the Department a copy of an agreement or similar  
24 conveyance with a water service provider demonstrating agreement of water usage and service  
25 at the site. Certificate holder shall provide documentation that the water provider has a valid  
26 water right which allows for municipal water use within the place of use of the facility.

27 [Amendment #6, #7]  
28

## 29 **XI. SUCCESSORS AND ASSIGNS**

30 To transfer this site certificate, or any portion thereof, or to assign or dispose of it in any other  
31 manner, directly or indirectly, the certificate holder shall comply with OAR 345-027-0100.

## 32 **XII. SEVERABILITY AND CONSTRUCTION**

33  
34 If any provision of this agreement and certificate is declared by a court to be illegal or in conflict  
35 with any law, the validity of the remaining terms and conditions shall not be affected, and the rights and  
36 obligations of the parties shall be construed and enforced as if the agreement and certificate did not  
37 contain the particular provision held to be invalid. In the event of a conflict between the conditions  
38 contained in the amended site certificate and the Council's Final Order on the Application, or the Final  
39 Orders on Amendment #1, #2, #3, #4, #5, #6, #7 or #7-8 the conditions contained in this amended site  
40 certificate shall control. [Amendment #1, #5, #6, #7, #8]  
41

## 42 **XIII. GOVERNING LAW AND FORUM**

43  
44 This site certificate shall be governed by the laws of the State of Oregon. Any litigation or  
45 arbitration arising out of this agreement shall be conducted in an appropriate forum in Oregon.

1 **XIV. EXECUTION**

2  
3 This site certificate may be executed in counterparts and will become effective upon signature  
4 by the Chair of the Energy Facility Siting Council and the authorized representatives of the certificate  
5 holders. [Amendment #1]

6  
7 **IN WITNESS WHEREOF**, this site certificate has been executed by the State of Oregon, acting by and  
8 through its Energy Facility Siting Council, by FPL Energy Vansycle LLC and by ~~FPL Energy Stateline II,~~  
9 ~~Inc/Vansycle II Wind, LLC.~~

10 ENERGY FACILITY SITING COUNCIL

FPL ENERGY VANSYCLE LLC

By: \_\_\_\_\_  
Marcia L. Grail, Chair  
Oregon Energy Facility Siting Council

By: \_\_\_\_\_  
Print: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

~~VANSYCLE II WIND, LLC FPL ENERGY STATELINE II,  
INC.~~

By: \_\_\_\_\_

Print: \_\_\_\_\_

Date: \_\_\_\_\_